

108TH CONGRESS
1ST SESSION

S. 1375

To provide for the reauthorization of programs administered by the Small Business Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 8, 2003

Ms. SNOWE (for herself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To provide for the reauthorization of programs administered by the Small Business Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Small Business Administration 50th Anniversary Reau-
6 thorization Act of 2003”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Effective date.

TITLE I—GENERAL PROVISIONS

Subtitle A—Administration Accountability

- Sec. 101. Document retention and investigations.
- Sec. 102. Management of the Small Business Administration.

Subtitle B—Authorizations

- Sec. 111. Program authorization levels.
- Sec. 112. Additional reauthorizations.

TITLE II—FINANCIAL ASSISTANCE

Subtitle A—7(a) Loan Guarantee Program

- Sec. 201. National Preferred Lenders Pilot Program.
- Sec. 202. Extension of program participation fees.
- Sec. 203. Loans sold in secondary market.
- Sec. 204. Clarification of eligibility for veterans.
- Sec. 205. Enhancement of low documentation loan program.
- Sec. 206. Increased loan amounts for exporters.

Subtitle B—Microloan Program

- Sec. 211. Microloan program improvements.

Subtitle C—Lender Oversight

- Sec. 221. Examination and review fees.
- Sec. 222. Enforcement authority for Small Business Lending Companies and non-federally regulated SBA lenders.
- Sec. 223. Definitions for Small Business Lending Companies and non-federally regulated SBA lenders.

Subtitle D—Disaster Assistance Loan Program

- Sec. 231. Conforming amendment for disaster loan program.
- Sec. 232. Disaster relief for small business concerns damaged by drought.
- Sec. 233. Disaster mitigation pilot program.

Subtitle E—504 Loan Program

- Sec. 241. Extension of user fees.
- Sec. 242. Amortized loan loss reserve fund.
- Sec. 243. Alternative loss reserve for certain premier certified lenders.
- Sec. 244. Debenture size.
- Sec. 245. Job creation or retention standards.
- Sec. 246. Simplified applications.
- Sec. 247. Child care lending pilot program.
- Sec. 248. Definition of rural area.

Subtitle F—Surety Bond Program

- Sec. 251. Clarification of maximum surety bond guarantee.
- Sec. 252. Authorization of Preferred Surety Bond Guarantee Program.

Subtitle G—Miscellaneous

- Sec. 261. Coordination of SBA loans.

- Sec. 262. Leasing options for 7(a) and 504 borrowers.
- Sec. 263. Calculation of financing limitation for small business investment companies.
- Sec. 264. Establishing alternative size standard.
- Sec. 265. Pilot program for guarantees on pools of non-SBA loans.

Subtitle H—New Markets Venture Capital

- Sec. 271. Time frame for raising private capital.
- Sec. 272. Definition of low-income geographic area.

Subtitle I—Small Business Investment Company Program

- Sec. 281. Investment of excess funds.
- Sec. 282. Maximum prioritized payment rate.
- Sec. 283. Improved distribution requirements.

TITLE III—ENTREPRENEURIAL DEVELOPMENT PROGRAMS

Subtitle A—Office of Entrepreneurial Development

- Sec. 301. Service Corps of Retired Executives.
- Sec. 302. Small Business Development Center Program.

Subtitle B—Women's Small Business Ownership Programs

- Sec. 311. Office of Women's Business Ownership.
- Sec. 312. Women's Business Center Program.
- Sec. 313. National Women's Business Council.
- Sec. 314. Interagency Committee on Women's Business Enterprise.

Subtitle C—Office of Native American Affairs

- Sec. 321. Short title.
- Sec. 322. Native American Small Business Development Program.
- Sec. 323. Pilot programs.

Subtitle D—Office of Veterans Business Development

- Sec. 331. Advisory Committee on Veterans Business Affairs.
- Sec. 332. Outreach grants for veterans.
- Sec. 333. Authorization of appropriations.

TITLE IV—SMALL BUSINESS PROCUREMENT OPPORTUNITIES

- Sec. 401. Contract consolidation.
- Sec. 402. Agency accountability.
- Sec. 403. Small business participation in prime contracting.
- Sec. 404. Small business participation in subcontracting.
- Sec. 405. Evaluating subcontract participation in awarding contracts.
- Sec. 406. Direct payments to subcontractors.
- Sec. 407. Women-owned small business industry study.
- Sec. 408. Authorizations.
- Sec. 409. Definition of HUBzone; treatment of certain former military installation lands as HUBzones.
- Sec. 410. Definition of HUBzone small business concern.
- Sec. 411. Acquisition regulations.

TITLE V—MISCELLANEOUS

Sec. 501. Minority Small Business and Capital Ownership Development Program.

Sec. 502. Extension of program authority.

Sec. 503. Report to Congress.

1 **SEC. 2. EFFECTIVE DATE.**

2 (a) IN GENERAL.—This Act and the amendments
3 made by this Act shall take effect on October 1, 2003.

4 (b) RULEMAKING AUTHORITY.—

5 (1) PROPOSED REGULATIONS.—Except as oth-
6 erwise specifically provided in this Act, not later
7 than 180 days after the date of enactment of this
8 Act, the Administrator of the Small Business Ad-
9 ministration (referred to in this Act as the “Admin-
10 istrator” and the “Administration”, respectively)
11 shall publish proposed regulations to carry out the
12 provisions of this Act and the amendments made by
13 this Act.

14 (2) FINAL REGULATIONS.—Except as otherwise
15 specifically provided in this Act, not later than 300
16 days after the date of enactment of this Act, the Ad-
17 ministrator shall issue final regulations to carry out
18 the provisions of this Act and the amendments made
19 by this Act.

1 **TITLE I—GENERAL PROVISIONS**
2 **Subtitle A—Administration**
3 **Accountability**

4 **SEC. 101. DOCUMENT RETENTION AND INVESTIGATIONS.**

5 Section 10(e) of the Small Business Act (15 U.S.C.
6 639(e)) is amended by striking the matter preceding para-
7 graph (2) and inserting the following:

8 “(e) DOCUMENT RETENTION; INVESTIGATIONS.—

9 “(1) DOCUMENT RETENTION.—The Adminis-
10 tration and the Inspector General of the Administra-
11 tion shall—

12 “(A) retain all documents and records, in-
13 cluding correspondence, records of inquiry,
14 memoranda (including those relating to all in-
15 vestigations conducted by or for the Adminis-
16 tration), reports, studies, analyses, contracts,
17 agreements, opinions, computer entries, e-mail
18 messages, forms, manuals, briefing materials,
19 press releases, and books for a period of not
20 less than 2 years from the date such documents
21 are created;

22 “(B) keep the items described in subpara-
23 graph (A) available at all times for inspection
24 and examination by the Committee on Small
25 Business and Entrepreneurship of the Senate

1 and the Committee on Small Business of the
2 House of Representatives, or their duly author-
3 ized representatives; and

4 “(C) upon the written request of the Com-
5 mittee on Small Business and Entrepreneurship
6 of the Senate or the Committee on Small Busi-
7 ness of the House of Representatives pursuant
8 to subparagraph (B), the Administrator or the
9 Inspector General, as applicable, shall make
10 such documents or records available to the re-
11 questing committee or its duly authorized rep-
12 resentative within 5 business days of the re-
13 quest, and if a document or record cannot be
14 made available within such timeframe, the Ad-
15 ministrator or the Inspector General, as appli-
16 cable, shall provide the requesting committee
17 with a written explanation stating the reason
18 that each document or record requested has not
19 been provided and a date certain for its produc-
20 tion.”.

21 **SEC. 102. MANAGEMENT OF THE SMALL BUSINESS ADMIN-**
22 **ISTRATION.**

23 Section 4 of the Small Business Act (15 U.S.C. 633)
24 is amended—

1 (1) by striking “SEC. 4” and inserting the fol-
 2 lowing:

3 **“SEC. 4. MANAGEMENT OF THE SMALL BUSINESS ADMINIS-**
 4 **TRATION.”;**

5 (2) in subsection (a), by striking “(a)” and in-
 6 serting the following:

7 “(a) ESTABLISHMENT.—”;

8 (3) in subsection (b)—

9 (A) by striking “(b)(1)” and inserting the
 10 following:

11 “(b) AUTHORITY OF ADMINISTRATOR.—

12 “(1) IN GENERAL.—

13 “(A) APPOINTMENT.—”;

14 (B) in paragraph (1)—

15 (i) by striking “The Administrator
 16 shall not engage” and inserting the fol-
 17 lowing:

18 “(B) SOLE EMPLOYMENT.—The Adminis-
 19 trator shall not engage”;

20 (ii) by striking “In carrying out” and
 21 inserting the following:

22 “(C) NONDISCRIMINATION; SPECIAL CON-
 23 sideration for veterans.—In carrying out”;

24 and

1 (iii) by striking “The President” and
 2 inserting the following:

3 “(D) APPOINTMENT OF DEPUTY ADMINIS-
 4 TRATOR; ASSOCIATE ADMINISTRATORS.—The
 5 President”; and

6 (C) in paragraph (2), by striking “the Ad-
 7 ministrator also” and inserting “RESPONSIBIL-
 8 ITIES OF ADMINISTRATOR.—The Adminis-
 9 trator”; and

10 (4) by adding at the end the following:

11 “(g) OFFICE OF LENDER OVERSIGHT.—The Director
 12 of the Office of Lender Oversight shall—

13 “(1) formulate, execute, and promote policies
 14 and procedures of the Administration that provide
 15 adequate and effective oversight and review of lend-
 16 ers participating in, or applying to participate in,
 17 the loan and loan guaranty programs for small busi-
 18 ness concerns under this Act and the Small Business
 19 Investment Act of 1958; and

20 “(2) report directly to the Chief Operating Offi-
 21 cer of the Administration.”.

22 **Subtitle B—Authorizations**

23 **SEC. 111. PROGRAM AUTHORIZATION LEVELS.**

24 Section 20 of the Small Business Act (15 U.S.C. 631
 25 note) is amended—

1 (1) in subsection (a)(1), by striking “certifi-
 2 cation” each place that term appears and inserting
 3 “accreditation”;

4 (2) by striking subsections (e) through (h) and
 5 inserting the following:

6 “(c) DISASTER MITIGATION PILOT PROGRAM.—The
 7 following program levels are authorized for loans under
 8 section 7(b)(1)(C):

9 “(1) \$15,000,000 for fiscal year 2003.

10 “(2) \$15,000,000 for fiscal year 2004.

11 “(3) \$15,000,000 for fiscal year 2005.

12 “(4) \$15,000,000 for fiscal year 2006.”;

13 (3) by redesignating subsection (i) as subsection
 14 (d); and

15 (4) by adding at the end the following:

16 “(e) FISCAL YEAR 2004.—

17 “(1) PROGRAM LEVELS.—The following pro-
 18 gram levels are authorized for fiscal year 2004:

19 “(A) For the programs authorized by this
 20 Act, the Administration is authorized to
 21 make—

22 “(i) \$70,000,000 in technical assist-
 23 ance grants, as provided in section 7(m);
 24 and

1 “(ii) \$100,000,000 in direct loans, as
2 provided in section 7(m).

3 “(B) For the programs authorized by this
4 Act, the Administration is authorized to make
5 \$21,550,000,000 in deferred participation loans
6 and other financings. Of such sum, the Admin-
7 istration is authorized to make—

8 “(i) \$16,000,000,000 in general busi-
9 ness loans, as provided in section 7(a);

10 “(ii) \$5,000,000,000 in certified de-
11 velopment company financings, as provided
12 in section 7(a)(13) of this Act and section
13 504 of the Small Business Investment Act
14 of 1958;

15 “(iii) \$500,000,000 in loans, as pro-
16 vided in section 7(a)(21); and

17 “(iv) \$50,000,000 in loans, as pro-
18 vided in section 7(m).

19 “(C) For the programs authorized by title
20 III of the Small Business Investment Act of
21 1958, the Administration is authorized to
22 make—

23 “(i) \$4,000,000,000 in purchases of
24 participating securities; and

1 “(ii) \$3,000,000,000 in guarantees of
2 debentures.

3 “(D) For the programs authorized by part
4 B of title IV of the Small Business Investment
5 Act of 1958, the Administration is authorized
6 to enter into guarantees not to exceed
7 \$6,000,000,000, of which not more than 50
8 percent may be in bonds approved pursuant to
9 section 411(a)(3) of that Act.

10 “(E) The Administration is authorized to
11 make grants or enter into cooperative agree-
12 ments for a total amount of \$7,000,000 for the
13 Service Corps of Retired Executives program
14 authorized by section 8(b)(1).

15 “(2) ADDITIONAL AUTHORIZATIONS.—

16 “(A) There are authorized to be appro-
17 priated to the Administration for fiscal year
18 2004 such sums as may be necessary to carry
19 out the provisions of this Act not elsewhere pro-
20 vided for, including administrative expenses and
21 necessary loan capital for disaster loans pursu-
22 ant to section 7(b), and to carry out title IV of
23 the Small Business Investment Act of 1958, in-
24 cluding salaries and expenses of the Adminis-
25 tration.

1 “(B) Notwithstanding any other provision
2 of this paragraph, for fiscal year 2004—

3 “(i) no funds are authorized to be
4 used as loan capital for the loan program
5 authorized by section 7(a)(21) except by
6 transfer from another Federal department
7 or agency to the Administration, unless the
8 program level authorized for general busi-
9 ness loans under paragraph (1)(B)(i) is
10 fully funded; and

11 “(ii) the Administration may not ap-
12 prove loans on its own behalf or on behalf
13 of any other Federal department or agen-
14 cy, by contract or otherwise, under terms
15 and conditions other than those specifically
16 authorized under this Act or the Small
17 Business Investment Act of 1958, except
18 that it may approve loans under section
19 7(a)(21) of this Act in gross amounts of
20 not more than \$2,000,000.

21 “(f) FISCAL YEAR 2005.—

22 “(1) PROGRAM LEVELS.—The following pro-
23 gram levels are authorized for fiscal year 2005:

1 “(A) For the programs authorized by this
2 Act, the Administration is authorized to
3 make—

4 “(i) \$75,000,000 in technical assist-
5 ance grants, as provided in section 7(m);
6 and

7 “(ii) \$105,000,000 in direct loans, as
8 provided in 7(m).

9 “(B) For the programs authorized by this
10 Act, the Administration is authorized to make
11 \$22,300,000,000 in deferred participation loans
12 and other financings. Of such sum, the Admin-
13 istration is authorized to make—

14 “(i) \$16,500,000,000 in general busi-
15 ness loans, as provided in section 7(a);

16 “(ii) \$5,250,000,000 in certified de-
17 velopment company financings, as provided
18 in section 7(a)(13) of this Act and section
19 504 of the Small Business Investment Act
20 of 1958;

21 “(iii) \$500,000,000 in loans, as pro-
22 vided in section 7(a)(21); and

23 “(iv) \$50,000,000 in loans, as pro-
24 vided in section 7(m).

1 “(C) For the programs authorized by title
2 III of the Small Business Investment Act of
3 1958, the Administration is authorized to
4 make—

5 “(i) \$4,250,000,000 in purchases of
6 participating securities; and

7 “(ii) \$3,250,000,000 in guarantees of
8 debentures.

9 “(D) For the programs authorized by part
10 B of title IV of the Small Business Investment
11 Act of 1958, the Administration is authorized
12 to enter into guarantees not to exceed
13 \$6,000,000,000, of which not more than 50
14 percent may be in bonds approved pursuant to
15 section 411(a)(3) of that Act.

16 “(E) The Administration is authorized to
17 make grants or enter into cooperative agree-
18 ments for a total amount of \$7,000,000 for the
19 Service Corps of Retired Executives program
20 authorized by section 8(b)(1).

21 “(2) ADDITIONAL AUTHORIZATIONS.—

22 “(A) There are authorized to be appro-
23 priated to the Administration for fiscal year
24 2005 such sums as may be necessary to carry
25 out the provisions of this Act not elsewhere pro-

1 vided for, including administrative expenses and
2 necessary loan capital for disaster loans pursu-
3 ant to section 7(b), and to carry out title IV of
4 the Small Business Investment Act of 1958, in-
5 cluding salaries and expenses of the Adminis-
6 tration.

7 “(B) Notwithstanding any other provision
8 of this paragraph, for fiscal year 2005—

9 “(i) no funds are authorized to be
10 used as loan capital for the loan program
11 authorized by section 7(a)(21) except by
12 transfer from another Federal department
13 or agency to the Administration, unless the
14 program level authorized for general busi-
15 ness loans under paragraph (1)(B)(i) is
16 fully funded; and

17 “(ii) the Administration may not ap-
18 prove loans on its own behalf or on behalf
19 of any other Federal department or agen-
20 cy, by contract or otherwise, under terms
21 and conditions other than those specifically
22 authorized under this Act or the Small
23 Business Investment Act of 1958, except
24 that it may approve loans under section

1 7(a)(21) of this Act in gross amounts of
2 not more than \$2,000,000.

3 “(g) FISCAL YEAR 2006.—

4 “(1) PROGRAM LEVELS.—The following pro-
5 gram levels are authorized for fiscal year 2006:

6 “(A) For the programs authorized by this
7 Act, the Administration is authorized to
8 make—

9 “(i) \$80,000,000 in technical assist-
10 ance grants, as provided in section 7(m);
11 and

12 “(ii) \$110,000,000 in direct loans, as
13 provided in 7(m).

14 “(B) For the programs authorized by this
15 Act, the Administration is authorized to make
16 \$23,050,000,000 in deferred participation loans
17 and other financings. Of such sum, the Admin-
18 istration is authorized to make—

19 “(i) \$17,000,000,000 in general busi-
20 ness loans, as provided in section 7(a);

21 “(ii) \$5,500,000,000 in certified de-
22 velopment company financings, as provided
23 in section 7(a)(13) of this Act and section
24 504 of the Small Business Investment Act
25 of 1958;

1 “(iii) \$500,000,000 in loans, as pro-
2 vided in section 7(a)(21); and

3 “(iv) \$50,000,000 in loans, as pro-
4 vided in section 7(m).

5 “(C) For the programs authorized by title
6 III of the Small Business Investment Act of
7 1958, the Administration is authorized to
8 make—

9 “(i) \$4,500,000,000 in purchases of
10 participating securities; and

11 “(ii) \$3,500,000,000 in guarantees of
12 debentures.

13 “(D) For the programs authorized by part
14 B of title IV of the Small Business Investment
15 Act of 1958, the Administration is authorized
16 to enter into guarantees not to exceed
17 \$6,000,000,000, of which not more than 50
18 percent may be in bonds approved pursuant to
19 section 411(a)(3) of that Act.

20 “(E) The Administration is authorized to
21 make grants or enter into cooperative agree-
22 ments for a total amount of \$7,000,000 for the
23 Service Corps of Retired Executives program
24 authorized by section 8(b)(1).

25 “(2) ADDITIONAL AUTHORIZATIONS.—

1 “(A) There are authorized to be appro-
2 priated to the Administration for fiscal year
3 2006 such sums as may be necessary to carry
4 out the provisions of this Act not elsewhere pro-
5 vided for, including administrative expenses and
6 necessary loan capital for disaster loans pursu-
7 ant to section 7(b), and to carry out title IV of
8 the Small Business Investment Act of 1958, in-
9 cluding salaries and expenses of the Adminis-
10 tration.

11 “(B) Notwithstanding any other provision
12 of this paragraph, for fiscal year 2006—

13 “(i) no funds are authorized to be
14 used as loan capital for the loan program
15 authorized by section 7(a)(21) except by
16 transfer from another Federal department
17 or agency to the Administration, unless the
18 program level authorized for general busi-
19 ness loans under paragraph (1)(B)(i) is
20 fully funded; and

21 “(ii) the Administration may not ap-
22 prove loans on its own behalf or on behalf
23 of any other Federal department or agen-
24 cy, by contract or otherwise, under terms
25 and conditions other than those specifically

1 authorized under this Act or the Small
 2 Business Investment Act of 1958, except
 3 that it may approve loans under section
 4 7(a)(21) of this Act in gross amounts of
 5 not more than \$2,000,000.”.

6 **SEC. 112. ADDITIONAL REAUTHORIZATIONS.**

7 (a) DRUG-FREE WORKPLACE PROGRAM ASSIST-
 8 ANCE.—Section 21(c)(3)(T) of the Small Business Act (15
 9 U.S.C. 648(c)(3)(T)) is amended by striking “October 1,
 10 2003” and inserting “October 1, 2006”.

11 (b) PAUL D. COVERDELL DRUG-FREE WORKPLACE
 12 PROGRAM.—Section 27(g)(1) of the Small Business Act
 13 (15 U.S.C. 654(g)(1)) is amended by striking “2001
 14 through 2003” and inserting “2004 through 2006”.

15 (c) SMALL BUSINESS DEVELOPMENT CENTERS.—
 16 Section 21(a)(4)(C) of the Small Business Act (15 U.S.C.
 17 648(a)(4)(C)) is amended—

18 (1) by amending clause (vii) to read as follows:

19 “(vii) AUTHORIZATION OF APPROPRIA-
 20 TIONS.—There are authorized to be appro-
 21 priated to carry out this subparagraph—

22 “(I) \$125,000,000 for fiscal year
 23 2004;

24 “(II) \$130,000,000 for fiscal year
 25 2005; and

1 “(III) \$135,000,000 for fiscal year
2 2006.”;

3 (2) by redesignating clause (viii) as clause (ix);

4 and

5 (3) by inserting after clause (vii) the following:

6 “(viii) LIMITATION.—From the funds ap-
7 propriated pursuant to clause (vii), the Admin-
8 istration shall reserve not less than \$1,000,000
9 in each fiscal year to develop portable assist-
10 ance for startup and sustainability non-match-
11 ing grant programs to be conducted by eligible
12 small business development centers in commu-
13 nities that are economically challenged as a re-
14 sult of a business or government facility
15 downsizing or closing, which has resulted in the
16 loss of jobs or small business instability. A non-
17 matching grant under this clause shall not ex-
18 ceed \$100,000, and shall be used for small
19 business development center personnel expenses
20 and related small business programs and serv-
21 ices.”.

1 **TITLE II—FINANCIAL**
2 **ASSISTANCE**
3 **Subtitle A—7(a) Loan Guarantee**
4 **Program**

5 **SEC. 201. NATIONAL PREFERRED LENDERS PILOT PRO-**
6 **GRAM.**

7 Section 7(a)(2) of the Small Business Act (15 U.S.C.
8 636(a)(2)(C)) is amended by adding at the end the fol-
9 lowing:

10 “(E) NATIONAL PREFERRED LENDERS
11 PILOT PROGRAM.—

12 “(i) ESTABLISHMENT.—There is es-
13 tablished the National Preferred Lenders
14 Pilot Program, a 3-year pilot program in
15 which a participant in the Preferred Lend-
16 ers Program may operate as a preferred
17 lender in any State if such lender meets
18 the criteria established by the Administra-
19 tion.

20 “(ii) ELIGIBILITY CRITERIA.—For
21 purposes of clause (i), criteria established
22 by the Administration shall include—

23 “(I) demonstrated proficiency in
24 the Preferred Lenders Program for
25 not less than 3 years;

1 “(II) annual loan approvals of a
2 minimum number of 7(a) Preferred
3 Lenders Program loans, excluding
4 SBA Express loans, as determined by
5 the Administration;

6 “(III) operation by the lender in
7 not less than 5 States or 10 Small
8 Business Administration districts;

9 “(IV) satisfactory centralized ap-
10 proval, loan servicing, and loan liq-
11 uidation functions and processes; and

12 “(V) consideration of any com-
13 ments and recommendations that may
14 be received from any District Director
15 or Regional Administrator relating to
16 the performance of the applicant.

17 “(iii) TERMS AND CONDITIONS.—Ap-
18 plicants shall be approved under the fol-
19 lowing terms and conditions:

20 “(I) TERM.—Each participant
21 approved under this subparagraph
22 shall be eligible to make loans for up
23 to 1 year under the program estab-
24 lished under this subparagraph.

1 “(II) RENEWAL.—At the expira-
 2 tion of the term described in sub-
 3 clause (I), the authority of a partici-
 4 pant to make loans under this sub-
 5 paragraph may be renewed based on a
 6 review of performance during the ini-
 7 tial term.

8 “(III) EFFECT OF FAILURE.—
 9 Failure to meet the criteria under this
 10 subparagraph shall not effect the eli-
 11 gibility of a participant to continue as
 12 a preferred lender in States or dis-
 13 tricts in which it is in good stand-
 14 ing.”.

15 **SEC. 202. EXTENSION OF PROGRAM PARTICIPATION FEES.**

16 Section 7(a) of the Small Business Act (15 U.S.C.
 17 636(a)) is amended—

18 (1) in paragraph (12) by striking “(b)” and in-
 19 serting the following:

20 “(B)”;

21 (2) in paragraph (18)—

22 (A) in subparagraph (A)—

23 (i) in clause (i), by striking “2 per-
 24 cent” and inserting “1 percent”; and

1 (ii) in clause (ii), by striking “3 per-
 2 cent” and inserting “2.5 percent”; and
 3 (B) by striking subparagraph (C); and
 4 (3) in paragraph (23)(A), by striking “0.5 per-
 5 cent” and all that follows through “equal to”.

6 **SEC. 203. LOANS SOLD IN SECONDARY MARKET.**

7 Section 5(g) of the Small Business Act (15 U.S.C.
 8 634(g)) is amended by adding at the end the following:
 9 “(6) Trust certificates issued pursuant to this sub-
 10 section may be comprised of a pool of loans, guaranteed
 11 by the Administration, with varying interest rates. The in-
 12 terest rate paid by such certificates shall be equal to the
 13 weighted average of the interest rates of the loans in the
 14 pool. The Administration shall prescribe the maximum
 15 amount of variation in the loan characteristics in order
 16 to enhance the marketability of the pool.”.

17 **SEC. 204. CLARIFICATION OF ELIGIBILITY FOR VETERANS.**

18 Section 7(a)(8) of the Small Business Act (15 U.S.C.
 19 636(a)(8)) is amended to read as follows:

20 “(8) The Administration may make loans under
 21 this subsection to—

22 “(A) small business concerns owned and
 23 controlled by veterans (as defined in section
 24 101(2) of title 38, United States Code);

1 “(B) small business concerns owned and
 2 controlled by disabled veterans (as defined in
 3 section 4211(3) of title 38, United States
 4 Code); and

5 “(C) small business concerns owned and
 6 controlled by members of Reserve components
 7 of the Armed Forces (as defined in section
 8 101(c)(6) of title 10, United States Code).”.

9 **SEC. 205. ENHANCEMENT OF LOW DOCUMENTATION LOAN**
 10 **PROGRAM.**

11 Section 7(a)(25)(C) of the Small Business Act (15
 12 U.S.C. 636(a)(25)(C)) is amended by striking “\$100,000”
 13 and inserting “\$250,000”.

14 **SEC. 206. INCREASED LOAN AMOUNTS FOR EXPORTERS.**

15 Section 7(a) of the Small Business Act (15 U.S.C.
 16 636(a)) is amended—

17 (1) in paragraph (3)—

18 (A) in subparagraph (A), by inserting be-
 19 fore the semicolon at the end the following:
 20 “and paragraph (14)”; and

21 (B) in subparagraph (B), by striking
 22 “\$1,250,000” and inserting “\$1,300,000”; and

23 (2) in paragraph (14), by adding at the end the
 24 following:

1 “(D) The total amount of financings under this
 2 paragraph that are outstanding and committed (by
 3 participation or otherwise) to the borrower from the
 4 business loan and investment fund established under
 5 this Act may not exceed \$1,300,000 and the gross
 6 loan amount under this paragraph may not exceed
 7 \$2,600,000.”.

8 **Subtitle B—Microloan Program**

9 **SEC. 211. MICROLOAN PROGRAM IMPROVEMENTS.**

10 (a) INTERMEDIARY ELIGIBILITY REQUIREMENTS.—
 11 Section 7(m)(2) of the Small Business Act (15 U.S.C.
 12 636(m)(2)) is amended—

13 (1) in subparagraph (A), by striking “in para-
 14 graph (10); and” and inserting “of the term ‘inter-
 15 mediary’ under paragraph (11);” and

16 (2) in subparagraph (B)—

17 (A) by striking “(B) has at least” and in-
 18 serting the following:

19 “(B) has—

20 “(i) at least”; and

21 (B) by striking the period at the end and
 22 inserting the following: “; or

23 “(ii) a full-time employee who has not
 24 less than 3 years experience making

1 microloans to startup, newly established, or
 2 growing small business concerns; and
 3 “(C) has at least 1 year experience pro-
 4 viding, as an integral part of its microloan pro-
 5 gram, intensive marketing, management, and
 6 technical assistance to its borrowers.”.

7 (b) CONFORMING CHANGE IN AVERAGE SMALLER
 8 LOAN SIZE.—Section 7(m)(3)(F)(iii) of the Small Busi-
 9 ness Act (15 U.S.C. 636(m)(3)(F)(iii)) is amended by
 10 striking “\$7,500” and inserting “\$10,000”.

11 (c) LIMITATION ON THIRD PARTY TECHNICAL AS-
 12 SISTANCE.—Section 7(m)(4)(E)(ii) of the Small Business
 13 Act (15 U.S.C. 636(m)(4)(E)(ii)) is amended—

14 (1) by striking “TECHNICAL ASSISTANCE” and
 15 inserting “THIRD PARTY TECHNICAL ASSISTANCE”;
 16 and

17 (2) by striking “25 percent” and inserting “30
 18 percent”.

19 (d) LOAN TERMS.—Section 7(m)(1)(B)(i) of the
 20 Small Business Act (15 U.S.C. 636(m)(1)(B)(i)) is
 21 amended by striking “short-term”.

22 (e) REPORT ON TRANSFERRED AMOUNTS.—Section
 23 7(m)(9)(B) of the Small Business Act (15 U.S.C.
 24 636(m)(9)(B)) is amended—

1 (1) by striking “The Administration” and in-
2 serting the following:

3 “(i) IN GENERAL.—The Administra-
4 tion”;

5 (2) by striking the period after “financing”;
6 and

7 (3) by adding at the end the following:

8 “(ii) REPORT.—The Administration
9 shall report, in its annual budget request
10 and performance plan to Congress, on the
11 performance by the Administration of the
12 requirements of clause (i).”.

13 (f) ACCURATE SUBSIDY MODEL.—Section 7(m) of
14 the Small Business Act (15 U.S.C. 636(m)) is amended
15 by adding at the end the following:

16 “(14) IMPROVED SUBSIDY MODEL.—The Ad-
17 ministrator shall develop a subsidy model for the
18 microloan program under this subsection, to be used
19 in the fiscal year 2005 budget, that is more accurate
20 than the subsidy model in effect on the day before
21 the date of enactment of this paragraph.”.

22 **Subtitle C—Lender Oversight**

23 **SEC. 221. EXAMINATION AND REVIEW FEES.**

24 Section 5(b) of the Small Business Act (15 U.S.C.
25 634(b)) is amended—

1 (1) in the matter preceding paragraph (1), by
 2 striking “(b) In the performance” and inserting the
 3 following:

4 “(b) AUTHORITY OF ADMINISTRATOR.—In the per-
 5 formance”;

6 (2) in paragraph (12), by striking “and” at the
 7 end;

8 (3) in paragraph (13), by striking the period at
 9 the end and inserting “; and”; and

10 (4) by adding at the end the following:

11 “(14) require lenders participating in the pro-
 12 gram authorized by section 7(a), including Small
 13 Business Lending Companies, to pay reasonable ex-
 14 amination and review fees, which shall be—

15 “(A) deposited in the account for salaries
 16 and expenses of the Administration; and

17 “(B) made available only for the costs of
 18 examinations, reviews, and other lender over-
 19 sight activities concerning lenders participating
 20 in the program authorized by section 7(a).”.

21 **SEC. 222. ENFORCEMENT AUTHORITY FOR SMALL BUSI-**
 22 **NESS LENDING COMPANIES AND NON-FEDER-**
 23 **ALLY REGULATED SBA LENDERS.**

24 The Small Business Act (15 U.S.C. 631 et seq.) is
 25 amended—

1 (1) by redesignating section 36 as section 37;

2 and

3 (2) by inserting after section 35 the following

4 new section:

5 “SEC. 36. ENFORCEMENT AUTHORITY FOR SMALL BUSI-

6 NESS LENDING COMPANIES AND NON-FEDERALLY

7 REGULATED SBA LENDERS

8 “(a) DEFINED TERM.—In this section the term

9 ‘management official’ means an officer, director, general

10 partner, manager, employee, agent, or other participant

11 in the management or conduct of the affairs of a Small

12 Business Lending Company or non-federally regulated

13 SBA lender under section 7(a).

14 “(b) AUTHORIZATION.—

15 “(1) SMALL BUSINESS LENDING COMPANIES.—

16 The Administration is authorized to—

17 “(A) supervise the safety and soundness of

18 Small Business Lending Companies;

19 “(B) set capital standards for, regulate,

20 examine, and enforce laws relating to Small

21 Business Lending Companies; and

22 “(C) prescribe regulations governing the

23 operations, oversight, and enforcement of Small

24 Business Lending Companies, in accordance

25 with the purposes of this Act.

1 “(2) NON-FEDERALLY REGULATED SBA LEND-
2 ERS.—The Administration is authorized to—

3 “(A) supervise the safety and soundness of
4 non-federally regulated SBA lenders;

5 “(B) regulate, examine, and enforce laws
6 relating to lending by non-federally regulated
7 SBA lenders under section 7(a); and

8 “(C) prescribe regulations governing the
9 operations, oversight, and enforcement of non-
10 federally regulated SBA lenders, in accordance
11 with the purposes of this Act.

12 “(c) CAPITAL DIRECTIVES.—The Administration
13 may—

14 “(1) deem the failure of a Small Business
15 Lending Company to maintain capital at or above
16 the minimum capital level established by the Admin-
17 istration as an unsafe and unsound practice; and

18 “(2) in addition to, or in lieu of, any other ac-
19 tion authorized by law, issue a directive to a Small
20 Business Lending Company that fails to return or
21 maintain capital at or above its required level, as es-
22 tablished by the Administration.

23 “(d) FORFEITURE OF AUTHORITY FOR NONCOMPLI-
24 ANCE.—

1 “(1) IN GENERAL.—Subject to the provisions of
 2 subsection (g), if any Small Business Lending Com-
 3 pany violates any of the provisions of this Act, or
 4 any related regulation, such company shall forfeit all
 5 of the rights, privileges, and franchises under this
 6 Act.

7 “(2) ADJUDICATION.—A company under para-
 8 graph (1) shall not forfeit its rights, privileges, and
 9 franchises under this Act, unless a court of the
 10 United States, with jurisdiction over the judicial dis-
 11 trict in which the principal place of business of such
 12 company is located, determines, in a suit brought by,
 13 or on behalf of, the Administrator, that such com-
 14 pany violated this Act, or regulations promulgated
 15 pursuant to this Act.

16 “(e) REVOCATION OR SUSPENSION OF AUTHORITY.—

17 “(1) IN GENERAL.—Subject to the provisions of
 18 subsection (g), the Administration may revoke or
 19 suspend the authority of a participating lender to
 20 make, service, or liquidate business loans under sec-
 21 tion 7(a) if the participating lender—

22 “(A) knowingly makes false statements in
 23 any written statement required under this Act
 24 or any regulation issued under this Act;

1 “(B) fails to state, in any written state-
 2 ment required under this Act or any regulation
 3 issued under this Act, a material fact necessary
 4 in order to make the statement not misleading
 5 in the light of the circumstances under which
 6 the statement was made;

7 “(C) willfully or repeatedly violates—

8 “(i) any provision of this Act;

9 “(ii) any rule or regulation issued
 10 under this Act; or

11 “(iii) any condition imposed by the
 12 Administration with any application, re-
 13 quest, or agreement; or

14 “(D) violates any cease and desist order
 15 issued by the Administration under this section.

16 “(2) LENGTH OF SUSPENSION.—The suspen-
 17 sion under paragraph (1) shall remain in full force
 18 and effect until the Administration issues a written
 19 notice of termination.

20 “(3) NOTIFICATION.—If the lending authority
 21 of a lender is revoked under paragraph (1), the lend-
 22 er shall send notification, not later than 30 days
 23 after such revocation, to all existing borrowers that
 24 such authority has been revoked and that a new
 25 servicer has been appointed to service their loans. If

1 the lender fails to provide such notification before
2 the deadline, the administration shall provide such
3 notification to borrowers.

4 “(4) DELEGATION.—The Administration may
5 delegate the authority to suspend a participating
6 lender’s authority to make loans under section 7(a),
7 but shall not delegate the authority to revoke a par-
8 ticipating lender’s authority to make such loans.

9 “(f) CEASE AND DESIST ORDERS.—If a participating
10 lender or management official has violated, or is about to
11 violate any provision of this Act, or any related regulation,
12 the Administration, subject to the provisions of subsection
13 (g), may—

14 “(1) order the participating lender or manage-
15 ment official to—

16 “(A) cease and desist from such violation;
17 and

18 “(B) take, or refrain from, such action as
19 the Administration deems necessary to ensure
20 compliance with the Act and related regula-
21 tions; and

22 “(2) suspend the authority of such participating
23 lender pending full compliance with all orders issued
24 under paragraph (1).

1 “(g) PROCESS FOR REVOCATION OR SUSPENSION OF
2 AUTHORITY OR CEASE AND DESIST ORDERS.—

3 “(1) NOTICE.—Before revoking or suspending
4 the authority of a participating lender pursuant to
5 subsection (e) or issuing a cease and desist order
6 pursuant to subsection (f), the Administration
7 shall—

8 “(A) provide notice to the participating
9 lender that such action is contemplated; and

10 “(B) provide the participating lender with
11 an opportunity to show cause why such action
12 should not be taken.

13 “(2) CONTENTS.—A notice under paragraph
14 (1) shall contain—

15 “(A) a statement of the matters of fact
16 and law asserted by the Administration;

17 “(B) a description of the legal authority
18 and jurisdiction under which a hearing is to be
19 held; and

20 “(C) the time and place of the hearing that
21 will be held before the Administration.

22 “(3) HEARING.—

23 “(A) IN GENERAL.—A hearing under this
24 subsection shall take place before the Office of
25 Hearings and Appeals of the Administration.

1 “(B) SUBPOENA.—The Administration
2 may require by subpoena—

3 “(i) the attendance and testimony of
4 witnesses; and

5 “(ii) the production of all books, pa-
6 pers, e-mails, faxes, and documents relat-
7 ing to the hearing under this paragraph.

8 “(C) ENFORCEMENT OF SUBPOENA.—If a
9 party disobeys a subpoena issued under sub-
10 paragraph (B), the Administration, or any
11 party to a proceeding before the Administra-
12 tion, may invoke the aid of any court of the
13 United States to require—

14 “(i) the attendance and testimony of
15 witnesses; and

16 “(ii) the production of books, papers,
17 e-mails, faxes, and documents.

18 “(D) WITNESS FEES.—Witnesses sum-
19 moned before the Administration shall be paid,
20 by the party at whose instance they were called,
21 the same fees and mileage that are paid wit-
22 nesses in the courts of the United States.

23 “(4) ISSUANCE OF ORDER.—

24 “(A) IN GENERAL.—If the Administration,
25 after a hearing, or a waiver thereof, determines

on the record that an order revoking or suspending the authority of a participating lender under section 7(a) or a cease and desist order should be issued, the Administration shall promptly issue such order to the participating lender and any other person involved.

“(B) CONTENTS.—The order issued under subparagraph (A) shall contain—

“(i) a statement of the findings of the Administration;

“(ii) the reasons therefore; and

“(iii) the effective date of the order.

“(C) EFFECTIVE DATE.—

“(i) CEASE AND DESIST ORDER.—A cease and desist order issued under this paragraph shall become effective on the date specified therein.

“(ii) REVOCATION OR SUSPENSION.—An order revoking or suspending the authority of a participating lender under section 7(a) shall be final and conclusive 30 days after the date of issuance of such order unless the participating lender files an appeal under paragraph (5).

“(5) APPEAL.—

1 “(A) APPEAL BY RIGHT.—Not later than
2 30 days after an order is issued under para-
3 graph (4), a participating lender may appeal
4 such order by filing a petition requesting that
5 the Administration’s order be set aside or modi-
6 fied with the clerk of the United States district
7 court for the judicial district in which such par-
8 ticipating lender has its principal place of busi-
9 ness.

10 “(B) LEAVE OF COURT.—After the expira-
11 tion of the period described in subparagraph
12 (A), a participating lender may file a petition of
13 appeal only by leave of court and upon a show-
14 ing of reasonable grounds for failure to timely
15 file such petition.

16 “(C) DELIVERY OF PETITION.—Upon re-
17 ceiving a petition under this paragraph, the
18 clerk of the court shall immediately deliver a
19 copy of the petition to the Administration,
20 which shall certify and file in the court a tran-
21 script of the record upon which the order com-
22 plained of was entered.

23 “(D) AMENDMENT OF PETITION.—If the
24 Administration amends or sets aside its order,
25 in whole or in part, before the record is filed

1 under subparagraph (C), the petitioner may
2 amend the petition within such time as the
3 court may determine, on notice to the Adminis-
4 tration.

5 “(E) EFFECT OF PETITION.—The filing of
6 a petition for review shall not affect the oper-
7 ation of the order of the Administration, but
8 the district court may restrain or suspend, in
9 whole or in part, the operation of the order
10 pending the final hearing and determination of
11 the petition.

12 “(F) AUTHORITY OF COURT.—

13 “(i) IN GENERAL.—Except as pro-
14 vided under clause (ii), the district court
15 may affirm, modify, or set aside any order
16 of the Administration issued under this
17 subsection.

18 “(ii) LIMITATION.—The district court
19 shall not consider an objection to an order
20 of the Administration unless such objection
21 was presented to the Administration or
22 there were reasonable grounds for failure
23 to do so.

24 “(G) ADDITIONAL EVIDENCE.—

1 “(i) IN GENERAL.—If the district
2 court determines that the just and proper
3 disposition of the case requires the taking
4 of additional evidence, the court may take
5 additional evidence and findings of fact, or
6 may order the Administration to reopen
7 the hearing for the taking of such evi-
8 dence, in such manner and upon such
9 terms and conditions as the court deter-
10 mines to be proper.

11 “(ii) MODIFICATION OF FINDINGS.—
12 The Administration may modify its find-
13 ings as to the facts, or make new findings,
14 by reason of the additional evidence so
15 taken, and it shall file its modified or new
16 findings and the amendments, if any, of its
17 order, with the record of such additional
18 evidence.

19 “(6) ENFORCEMENT OF ORDER.—

20 “(A) IN GENERAL.—If any participating
21 lender or other person against which an order
22 is issued under this section fails to obey the
23 order, the Administration may file an applica-
24 tion with the United States district court within
25 the judicial district where the participating

1 lender has its principal place of business, for
 2 the enforcement of the order by filing a tran-
 3 script of the record upon which the disobeyed
 4 order was entered.

5 “(B) NOTICE.—Upon the receipt of the
 6 application filed under subparagraph (A), the
 7 court shall notify the participating lender or
 8 other person of such enforcement action.

9 “(C) PROCEDURE.—The evidence to be
 10 considered, the procedure to be followed, and
 11 the jurisdiction of the court shall be the same
 12 as is provided in paragraph (5) for applications
 13 to set aside or modify orders.

14 “(h) REMOVAL OR SUSPENSION OF MANAGEMENT
 15 OFFICIALS.—

16 “(1) REMOVAL OF MANAGEMENT OFFICIALS.—

17 “(A) NOTICE OF REMOVAL.—The Adminis-
 18 trator may serve upon any management official
 19 a written notice of its intention to remove that
 20 management official if, in the opinion of the
 21 Administrator such management official—

22 “(i) has willfully and knowingly com-
 23 mitted any substantial violation of—

24 “(I) this Act;

1 “(II) any regulation issued under
2 this Act;

3 “(III) a cease-and-desist order
4 which has become final; or

5 “(IV) any agreement by the man-
6 agement official or the participating
7 lender; or

8 “(ii) has willfully and knowingly com-
9 mitted or engaged in any act, omission, or
10 practice which constitutes a substantial
11 breach of a fiduciary duty of that person
12 as a management official if the violation or
13 breach of fiduciary duty involves personal
14 dishonesty on the part of such manage-
15 ment official.

16 “(B) CONTENTS OF NOTICE.—A notice
17 provided under subparagraph (A) shall con-
18 tain—

19 “(i) a statement of the facts consti-
20 tuting the grounds for the removal of the
21 management official; and

22 “(ii) the time and place at which a
23 hearing will be held to determine if the
24 management official should be removed
25 from office.

1 “(C) HEARINGS.—

2 “(i) TIMING.—A hearing described in
3 subparagraph (B) shall take place not ear-
4 lier than 30 days nor later than 60 days
5 after the date on which notice is provided
6 under subparagraph (A), unless an earlier
7 or later date is set by the Administrator at
8 the request of—

9 “(I) the management official, for
10 good cause shown; or

11 “(II) the Attorney General of the
12 United States.

13 “(ii) CONSENT.—If the management
14 official fails to appear, in person or by a
15 duly authorized representative, at a hear-
16 ing under this paragraph, that manage-
17 ment official shall be deemed to have con-
18 sented to the issuance of an order of re-
19 moval under subparagraph (A).

20 “(D) ISSUANCE OF ORDER OF REMOVAL.—

21 “(i) IN GENERAL.—The Administrator
22 may issue an order of removal from office
23 if—

24 “(I) consent is deemed under
25 subparagraph (C)(ii); or

1 “(II) the Administrator finds,
2 upon the record of the hearing de-
3 scribed in this subsection, that any of
4 the grounds specified in the notice of
5 removal has been established.

6 “(ii) EFFECTIVENESS.—An order
7 under clause (i) shall—

8 “(I) become effective on the expi-
9 ration of the date which is 30 days
10 after the date that notice is provided
11 to the participating lender and the
12 management official concerned (except
13 in the case of an order issued upon
14 consent as described in clause (C)(ii),
15 which shall become effective at the
16 time specified in such order); and

17 “(II) remain effective and en-
18 forceable, except to the extent it is
19 stayed, modified, terminated, or set
20 aside by action of the Administrator
21 or a reviewing court, in accordance
22 with this section.

23 “(2) AUTHORITY TO SUSPEND OR PROHIBIT
24 PARTICIPATION.—

1 “(A) IN GENERAL.—The Administrator
2 may—

3 “(i) if necessary to protect the Small
4 Business Lending Company or interests of
5 the Administration, suspend from office
6 any management official described in para-
7 graph (1), or temporarily prohibit such of-
8 ficial from further participating in the
9 management or conduct of the affairs of
10 the Small Business Lending Company; and

11 “(ii) if necessary to protect the inter-
12 ests of the Administration, suspend from
13 office any management official described in
14 paragraph (1) or prohibit from further
15 participation a non-federally regulated
16 SBA lender or any management official de-
17 scribed in paragraph (1) in any activities
18 related to the making, servicing, review,
19 approval, or liquidation of any loan made
20 under section 7(a).

21 “(B) EFFECTIVENESS.—A suspension or
22 prohibition under subparagraph (A)—

23 “(i) shall become effective upon serv-
24 ice of notice under paragraph (1); and

1 “(ii) unless stayed by a court in pro-
2 ceedings under subparagraph (C), shall re-
3 main in effect—

4 “(I) pending the completion of
5 the administrative proceedings pursu-
6 ant to a notice under paragraph (1);
7 and

8 “(II) until the Administrator dis-
9 misses the charges specified in the no-
10 tice, or, if an order of removal or pro-
11 hibition is issued against the manage-
12 ment official, until the effective date
13 of any such order.

14 “(C) JUDICIAL REVIEW.—Not later than
15 10 days after any management official has been
16 suspended from office or prohibited from par-
17 ticipation in the management or conduct of the
18 affairs of a participating lender, the manage-
19 ment official may apply for a stay of the sus-
20 pension or prohibition, pending the completion
21 of the administrative proceedings under this
22 subsection, to—

23 “(i) the United States district court
24 for the judicial district in which the home

1 office of the participating lender is located;

2 or

3 “(ii) the United States District Court
4 for the District of Columbia.

5 “(3) AUTHORITY TO SUSPEND ON CRIMINAL
6 CHARGES.—

7 “(A) IN GENERAL.—If a management offi-
8 cial is charged, in any information, indictment,
9 or complaint authorized by a United States at-
10 torney or a State prosecutor, with the commis-
11 sion of a felony involving dishonesty or breach
12 of trust, or has been convicted of any felony,
13 the Administrator may suspend that manage-
14 ment official from office or prohibit that man-
15 agement official from further participation in
16 the management or conduct of the affairs of the
17 participating lender.

18 “(B) EFFECTIVENESS.—A suspension or
19 prohibition under paragraph (A) shall remain in
20 effect until the subject information, indictment,
21 or complaint is finally disposed of, or until ter-
22 minated by the Administrator.

23 “(C) AUTHORITY UPON CONVICTION.—

24 “(i) IN GENERAL.—If a judgment of
25 conviction with respect to an offense de-

scribed in paragraph (A) is entered against a management official and is no longer subject to appellate review, the Administrator may issue an order removing that management official from office.

“(ii) NOTICE.—A copy of the order issued under clause (i) shall be delivered to the management official and the participating lender for which such official was employed.

“(iii) EFFECTIVE DATE.—The order of removal under clause (i) shall take effect upon the delivery of a copy of the order to the participating lender.

“(D) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in subparagraph (A) shall not preclude the Administrator from initiating proceedings to suspend or remove the management official from office, or to temporarily prohibit the management official from participation in the management or conduct of the affairs of any participating lender.

“(4) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

1 “(A) HEARING VENUE.—Any hearing
2 under this subsection shall be—

3 “(i) held in the Federal judicial dis-
4 trict or in the territory in which the prin-
5 cipal office of the participating lender is lo-
6 cated, unless the party afforded the hear-
7 ing consents to another place; and

8 “(ii) conducted in accordance with the
9 provisions of chapter 5 of title 5, United
10 States Code.

11 “(B) ISSUANCE OF ORDERS.—After a
12 hearing under this subsection, and not later
13 than 90 days after the Administrator has noti-
14 fied the parties that the case has been sub-
15 mitted for final decision, the Administrator
16 shall—

17 “(i) render a decision in the matter,
18 which shall include findings of fact upon
19 which its decision is predicated; and

20 “(ii) issue and serve upon each party
21 to the proceeding an order or orders con-
22 sistent with the provisions of this section.

23 “(C) AUTHORITY TO MODIFY ORDERS.—
24 The Administrator may modify, terminate, or
25 set aside any order issued under this section—

“(i) at any time, upon such notice, and in such manner as the Administrator may prescribe, until a petition for review is timely filed with a United States district court, in accordance with subparagraph (D)(ii) and a record of the proceeding has been filed in accordance with subparagraph (D)(iii); and

“(ii) after the filing of the record under subparagraph (D)(iii), with permission of the court.

“(D) JUDICIAL REVIEW.—

“(i) IN GENERAL.—Judicial review of an order issued under this section shall be limited to the provisions of this subsection.

“(ii) PETITION FOR JUDICIAL REVIEW.—Any party to a hearing under this section may obtain a review of any order issued pursuant to subparagraph (B) (other than an order issued with the consent of the management official concerned or an order issued under subsection (d)), by filing, not later than 30 days after the date of service of such order, in the United States district court for the judicial district

1 in which the principal office of the licensee
2 is located or in the United States District
3 Court for the District of Columbia, a writ-
4 ten petition requested that the order be
5 modified, terminated, or set aside.

6 “(iii) NOTICE TO ADMINISTRATION.—
7 The clerk of the court receiving a petition
8 under subparagraph (ii) shall transmit a
9 copy of the petition to the Administrator,
10 who shall submit to the court the record of
11 the proceeding, in accordance with section
12 2112 of title 28, United States Code.

13 “(iv) JURISDICTION.—

14 “(I) EXCLUSIVE.—Upon the fil-
15 ing of the record under clause (iii),
16 the district court described in clause
17 (ii) shall have exclusive jurisdiction to
18 affirm, modify, terminate, or set
19 aside, in whole or in part, the order of
20 the Administrator, except as provided
21 under paragraph (2)(B)(ii)(II).

22 “(II) REVIEW.—The review of
23 any proceeding under subclause (I)
24 shall be in accordance with chapter 7
25 of title 5, United States Code.

1 “(v) JUDICIAL REVIEW NOT A STAY.—

2 The commencement of proceedings for ju-
3 dicial review under this paragraph shall
4 not, unless specifically ordered by the dis-
5 trict court, operate as a stay of any order
6 issued by the Administrator under this sec-
7 tion.

8 “(i) INJUNCTIONS.—

9 “(1) APPLICATION.—If, in the judgment of the
10 Administrator, a participating lender or any other
11 person has engaged, or is about to engage, in any
12 acts or practices which violate any provision of this
13 Act, any rule or regulation under this Act, or any
14 order issued under this Act, the Administrator may
15 apply to the proper district court of the United
16 States, or a United States court of any place subject
17 to the jurisdiction of the United States, for an order
18 to—

19 “(A) enjoin such acts or practices; or

20 “(B) enforce compliance with such provi-
21 sion, rule, regulation, or order.

22 “(2) JURISDICTION.—A court under paragraph
23 (1) shall have jurisdiction over any action under
24 paragraph (1).

1 “(3) ISSUANCE.—Upon a showing by the Ad-
 2 ministrators that a participating lender or other per-
 3 son has engaged, or is about to engage, in any act
 4 or practice described in paragraph (1), the court
 5 shall issue, without bond—

6 “(A) a permanent or temporary injunction;

7 “(B) a restraining order; or

8 “(C) any other appropriate order.

9 “(j) APPOINTMENT OF RECEIVERS.—In any injunc-
 10 tion proceeding under subsection (i), the district court
 11 may—

12 “(1) seize the assets of 1 or more Small Busi-
 13 ness Lending Companies; and

14 “(2) appoint the Administration, or another re-
 15 ceiver, to hold or administer the assets seized under
 16 paragraph (1) under the direction of the court.

17 “(k) POSSESSION OF ASSETS.—

18 “(1) SMALL BUSINESS LENDING COMPANIES.—

19 If a Small Business Lending Company is insolvent,
 20 out of compliance with capital requirements under
 21 this section, or otherwise operating in an unsafe or
 22 unsound condition, the Administration may take
 23 possession of—

24 “(A) the portfolio of loans guaranteed by
 25 the Administration and sell such loans to a

1 third party through a receiver appointed under
2 subsection (j)(2); and

3 “(B) servicing activities of loans that are
4 guaranteed by the Administration and sell such
5 servicing rights to a third party through a re-
6 ceiver appointed under subsection (j)(2).

7 “(2) NON-FEDERALLY REGULATED SBA LEND-
8 ERS.—If a non-federally regulated SBA lender is in-
9 solvent or otherwise operating in an unsafe and un-
10 sound condition, the Administration may take pos-
11 session of—

12 “(A) the portfolio of loans guaranteed by
13 the Administration and sell such loans to a
14 third party; and

15 “(B) servicing activities of loans that are
16 guaranteed by the Administration and sell such
17 servicing rights to a third party.

18 “(l) PENALTIES AND FORFEITURES.—

19 “(1) IN GENERAL.—Except as provided under
20 paragraph (2), a Small Business Lending Company
21 or a non-federally regulated SBA lender that violates
22 any regulation or written directive issued by the Ad-
23 ministrator regarding the filing of any regular or
24 special report shall pay to the United States a civil
25 penalty of not more than \$5,000 for every day after

1 the due date in which the lender fails to file such re-
2 port, unless such failure is due to reasonable cause
3 and not willful neglect.

4 “(2) RECOVERY OF CIVIL PENALTY.—The civil
5 penalty provided for in this section shall accrue to
6 the United States and may be recovered in a civil
7 action brought by the Administration.

8 “(3) EXEMPTION.—The Administrator may, by
9 regulation, order, or upon the application of an in-
10 terested party, at any time before a report is due
11 under paragraph (1) and after notice and oppor-
12 tunity for hearing, exempt, in whole or in part, any
13 Small Business Lending Company from the provi-
14 sions of paragraph (1), upon such terms and condi-
15 tions and for such period of time as the Adminis-
16 trator determines to be appropriate, if the Adminis-
17 trator finds that such action is consistent with the
18 public interest or the protection of the Administra-
19 tion.

20 “(4) ALTERNATIVE REQUIREMENTS.—If an ex-
21 emption is granted under paragraph (3), the Admin-
22 istrator may, for the purposes of this section, make
23 any alternative requirements appropriate to the situ-
24 ation.”.

1 **SEC. 223. DEFINITIONS FOR SMALL BUSINESS LENDING**
 2 **COMPANIES AND NON-FEDERALLY REGU-**
 3 **LATED SBA LENDERS.**

4 Section 3 of the Small Business Act (15 U.S.C. 632)
 5 is amended—

6 (1) in subsection (l), by striking “Act—
 7 “(1) the term” and inserting “Act, the term”;
 8 and

9 (2) by adding at the end the following:

10 “(r) SMALL BUSINESS LENDING COMPANY.—In this
 11 Act, the term ‘Small Business Lending Company’ means
 12 a non-depository financial institution that is licensed, su-
 13 pervised, examined, and regulated by the Administration
 14 to only make loans under section 7.

15 “(s) NON-FEDERALLY REGULATED SBA LENDER.—
 16 In this Act, the term ‘non-federally regulated SBA lender’
 17 means a financial institution, other than a Small Business
 18 Lending Company, that makes loans under section 7 and
 19 is not regulated by—

20 “(1) the Farm Credit Administration;

21 “(2) the Federal Financial Institution Exam-
 22 ination Council;

23 “(3) the Board of Governors of the Federal Re-
 24 serve System;

25 “(4) the Office of the Comptroller of the Cur-
 26 rency;

1 “(5) the Federal Deposit Insurance Corpora-
2 tion;

3 “(6) the Office of Thrift Supervision; or

4 “(7) the National Credit Union Administra-
5 tion.”.

6 **Subtitle D—Disaster Assistance** 7 **Loan Program**

8 **SEC. 231. CONFORMING AMENDMENT FOR DISASTER LOAN** 9 **PROGRAM.**

10 Section 7(c)(6) of the Small Business Act (15 U.S.C.
11 636(c)(6)) is amended—

12 (1) by striking “\$500,000” each place it ap-
13 pears and inserting “\$1,500,000”; and

14 (2) by inserting “commencing on or after April
15 1, 1993,” before “unless an applicant”.

16 **SEC. 232. DISASTER RELIEF FOR SMALL BUSINESS CON-** 17 **CERNS DAMAGED BY DROUGHT.**

18 (a) DROUGHT DISASTER AUTHORITY.—

19 (1) DEFINITION OF DISASTER.—Section 3(k) of
20 the Small Business Act (15 U.S.C. 632(k)) is
21 amended—

22 (A) by inserting “(1)” after “(k)”; and

23 (B) by adding at the end the following:

24 “(2) For purposes of section 7(b)(2), the term ‘dis-
25 aster’ includes—

1 “(A) drought; and

2 “(B) below average water levels in the Great
3 Lakes, or on any body of water in the United States
4 that supports commerce by small business con-
5 cerns.”.

6 (2) DROUGHT DISASTER RELIEF AUTHORITY.—
7 Section 7(b)(2) of the Small Business Act (15
8 U.S.C. 636(b)(2)) is amended—

9 (A) by inserting “(including drought), with
10 respect to both farm-related and nonfarm-re-
11 lated small business concerns,” before “if the
12 Administration”; and

13 (B) in subparagraph (B), by striking “the
14 Consolidated Farmers Home Administration
15 Act of 1961 (7 U.S.C. 1961)” and inserting the
16 following: “section 321 of the Consolidated
17 Farm and Rural Development Act (7 U.S.C.
18 1961), in which case, assistance under this
19 paragraph may be provided to farm-related and
20 nonfarm-related small business concerns, sub-
21 ject to the other applicable requirements of this
22 paragraph”.

23 (b) LIMITATION ON LOANS.—From funds otherwise
24 appropriated pursuant to section 20 for loans under sec-
25 tion 7(b) of the Small Business Act (15 U.S.C. 636(b)),

1 not more than \$9,000,000 may be used during fiscal year
 2 2004 to provide drought disaster loans to nonfarm-related
 3 small business concerns.

4 (c) PROMPT RESPONSE TO DISASTER REQUESTS.—
 5 Section 7(b)(2)(D) of the Small Business Act (15 U.S.C.
 6 636(b)(2)(D)) is amended by striking “Upon receipt of
 7 such certification, the Administration may” and inserting
 8 “Not later than 30 days after the date of receipt of such
 9 certification by a Governor of a State, the Administration
 10 shall respond in writing to that Governor on its determina-
 11 tion and the reasons therefore, and may”.

12 (d) RULEMAKING.—Not later than 45 days after the
 13 date of enactment of this section, the Administrator shall
 14 promulgate final rules to carry out this section and the
 15 amendments made by this section.

16 **SEC. 233. DISASTER MITIGATION PILOT PROGRAM.**

17 Section 7(b)(1)(C) of the Small Business Act (15
 18 U.S.C. 636(b)(1)(C)) is amended by striking “2000
 19 through 2004” and inserting “2003 through 2006”.

20 **Subtitle E—504 Loan Program**

21 **SEC. 241. EXTENSION OF USER FEES.**

22 Section 503(f) of the Small Business Investment Act
 23 of 1958 (15 U.S.C. 697(f)) is amended by striking “Octo-
 24 ber 1, 2003” and inserting “October 1, 2006”.

1 **SEC. 242. AMORTIZED LOAN LOSS RESERVE FUND.**

2 Paragraph (6) of section 508(c) of the Small Busi-
3 ness Investment Act of 1958 (15 U.S.C. 697e(c)) is
4 amended—

5 (1) by striking “The Administration” and in-
6 serting the following:

7 “(A) IN GENERAL.—The Administration”;
8 and

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B) TEMPORARY REDUCTION BASED ON
12 OUTSTANDING BALANCE.—Notwithstanding
13 subparagraph (A), the Administration shall
14 allow the certified development company to
15 withdraw from the loss reserve such amounts as
16 are in excess of 1 percent of the aggregate out-
17 standing balances of debentures to which such
18 loss reserve relates. The preceding sentence
19 shall not apply with respect to any debenture
20 before 100 percent of the contribution described
21 in paragraph (4) with respect to such debenture
22 has been made.”.

1 **SEC. 243. ALTERNATIVE LOSS RESERVE FOR CERTAIN PRE-**
 2 **MIER CERTIFIED LENDERS.**

3 (a) IN GENERAL.—Subsection (c) of section 508 of
 4 the Small Business Investment Act of 1958 (15 U.S.C.
 5 697e) is amended by adding at the end the following:

6 “(7) ALTERNATIVE LOSS RESERVE.—

7 “(A) ELECTION.—With respect to any eli-
 8 gible calendar quarter, any qualified high loss
 9 reserve PCL may elect to have the requirements
 10 of this paragraph apply in lieu of the require-
 11 ments of paragraphs (2) and (4) for such quar-
 12 ter.

13 “(B) CONTRIBUTIONS.—

14 “(i) ORDINARY RULES INAPPLI-
 15 CABLE.—Except as provided under clause
 16 (ii) and paragraph (5), a qualified high
 17 loss reserve PCL that makes the election
 18 described in subparagraph (A) with respect
 19 to a calendar quarter shall not be required
 20 to make contributions to its loss reserve
 21 during such quarter.

22 “(ii) BASED ON LOSS.—A qualified
 23 high loss reserve PCL that makes the elec-
 24 tion described in subparagraph (A) with
 25 respect to any calendar quarter shall, be-
 26 fore the last day of such quarter, make

1 such contributions to its loss reserve as are
2 necessary to ensure that the amount of the
3 loss reserve of the PCL is—

4 “(I) not less than \$100,000; and

5 “(II) sufficient, as determined by
6 a qualified independent auditor, for
7 the PCL to meet its obligations to
8 protect the Federal Government from
9 risk of loss.

10 “(iii) CERTIFICATION.—Before the
11 end of any calendar quarter for which an
12 election is in effect under subparagraph
13 (A), the head of the PCL shall submit to
14 the Administrator a certification that the
15 loss reserve of the PCL is sufficient to
16 meet such PCL’s obligation to protect the
17 Federal Government from risk of loss.
18 Such certification shall be in such form
19 and submitted in such manner as the Ad-
20 ministrator may require and shall be
21 signed by the head of such PCL and the
22 auditor making the determination under
23 clause (ii)(II).

24 “(C) DISBURSEMENTS.—

1 “(i) ORDINARY RULE INAPPLI-
 2 CABLE.—Paragraph (6) shall not apply
 3 with respect to any qualified high loss re-
 4 serve PCL for any calendar quarter for
 5 which an election is in effect under sub-
 6 paragraph (A).

7 “(ii) EXCESS FUNDS.—At the end of
 8 each calendar quarter for which an election
 9 is in effect under subparagraph (A), the
 10 Administration shall allow the qualified
 11 high loss reserve PCL to withdraw from its
 12 loss reserve the excess of—

13 “(I) the amount of the loss re-
 14 serve, over

15 “(II) the greater of \$100,000 or
 16 the amount which is determined under
 17 subparagraph (B)(ii) to be sufficient
 18 to meet the PCL’s obligation to pro-
 19 tect the Federal Government from
 20 risk of loss.

21 “(D) RECONTRIBUTION.—If the require-
 22 ments of this paragraph apply to a qualified
 23 high loss reserve PCL for any calendar quarter
 24 and cease to apply to such PCL for any subse-
 25 quent calendar quarter, such PCL shall make a

1 contribution to its loss reserve in such amount
 2 as the Administrator may determine provided
 3 that such amount does not exceed the amount
 4 which would result in the total amount in the
 5 loss reserve being equal to the amount which
 6 would have been in such loss reserve had this
 7 paragraph never applied to such PCL. The Ad-
 8 ministrator may require that such payment be
 9 made as a single payment or as a series of pay-
 10 ments.

11 “(E) RISK MANAGEMENT.—If a qualified
 12 high loss reserve PCL fails to meet the require-
 13 ment of subparagraph (F)(iii) during any pe-
 14 riod for which an election is in effect under sub-
 15 paragraph (A) and such failure continues for
 16 180 days, the requirements of paragraphs (2),
 17 (4), and (6) shall apply to such PCL as of the
 18 end of such 180-day period and such PCL shall
 19 make the contribution to its loss reserve de-
 20 scribed in subparagraph (D). The Adminis-
 21 trator may waive the requirements of this sub-
 22 paragraph.

23 “(F) QUALIFIED HIGH LOSS RESERVE
 24 PCL.—The term ‘qualified high loss reserve
 25 PCL’ means, with respect to any calendar year,

1 any premier certified lender designated by the
2 Administrator as a qualified high loss reserve
3 PCL for such year. The Administrator shall not
4 designate a company under the preceding sen-
5 tence unless the Administrator determines
6 that—

7 “(i) the amount of the loss reserve of
8 the company is not less than \$100,000;

9 “(ii) the company has established and
10 is utilizing an appropriate and effective
11 process for analyzing the risk of loss asso-
12 ciated with its portfolio of PCLP loans and
13 for grading each PCLP loan made by the
14 company on the basis of the risk of loss as-
15 sociated with such loan; and

16 “(iii) the company meets or exceeds 4
17 or more of the specified risk management
18 benchmarks as of the most recent assess-
19 ment by the Administration or the Admin-
20 istration has issued a waiver with respect
21 to the requirement of this clause.

22 “(G) SPECIFIED RISK MANAGEMENT
23 BENCHMARKS.—For purposes of this para-
24 graph, the term ‘specified risk management

benchmarks' means the following rates, as determined by the Administrator:

“(i) Currency rate.

“(ii) Delinquency rate.

“(iii) Default rate.

“(iv) Liquidation rate.

“(v) Loss rate.

“(H) QUALIFIED INDEPENDENT AUDITOR.—For purposes of this paragraph, the term ‘qualified independent auditor’ means any licensed auditor who—

“(i) is compensated by the qualified high loss reserve PCL;

“(ii) is independent of such PCL; and

“(iii) has been approved by the Administrator during the preceding year.

“(I) PCLP LOAN.—For purposes of this paragraph, the term ‘PCLP loan’ means any loan guaranteed under this section.

“(J) ELIGIBLE CALENDAR QUARTER.—For purposes of this paragraph, the term ‘eligible calendar quarter’ means—

“(i) the first calendar quarter that begins after the end of the 90-day period be-

1 ginning with the date of the enactment of
2 this paragraph; and

3 “(ii) the 7 succeeding calendar quar-
4 ters.

5 “(K) CALENDAR QUARTER.—For purposes
6 of this paragraph, the term ‘calendar quarter’
7 means—

8 “(i) the period which begins on Janu-
9 ary 1 and ends on March 31 of each year;

10 “(ii) the period which begins on April
11 1 and ends on June 30 of each year;

12 “(iii) the period which begins on July
13 1 and ends on September 30 of each year;
14 and

15 “(iv) the period which begins on Octo-
16 ber 1 and ends on December 31 of each
17 year.

18 “(L) REGULATIONS.—Not later than 45
19 days after the date of the enactment of this
20 paragraph, the Administrator shall publish in
21 the Federal Register and transmit to Congress
22 regulations to carry out this paragraph. Such
23 regulations shall include provisions relating
24 to—

1 “(i) the approval of auditors under
2 subparagraph (H); and

3 “(ii) the designation of qualified high
4 loss reserve PCLs under subparagraph
5 (F), including the determination of wheth-
6 er a process for analyzing risk of loss is
7 appropriate and effective for purposes of
8 subparagraph (F)(ii).”.

9 (b) INCREASED REIMBURSEMENT FOR LOSSES RE-
10 LATED TO DEBENTURES ISSUED DURING ELECTION PE-
11 RIOD.—Subparagraph (C) of section 508(b)(2) of the
12 Small Business Investment Act of 1958 (15 U.S.C.
13 697e(b)(2)) is amended by inserting “(15 percent in the
14 case of any such loss attributable to a debenture issued
15 by the company during any period for which an election
16 is in effect under subsection (c)(7) for such company)”
17 before “; and”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Subparagraph (D) of section 508(b)(2) of
20 the Small Business Investment Act of 1958 (15
21 U.S.C. 697e(b)(2)) is amended by striking “sub-
22 section (c)(2)” and inserting “subsection (c)”.

23 (2) Paragraph (5) of section 508(c) of the
24 Small Business Investment Act of 1958 (15 U.S.C.
25 697e(c)) is amended by striking “10 percent”.

1 (d) STUDY AND REPORT.—

2 (1) IN GENERAL.—The Administrator shall
3 enter into a contract with a Federal agency experi-
4 enced in community development lending and finan-
5 cial regulation or with a member of the Federal Fi-
6 nancial Institutions Examinations Council to study
7 and prepare a report regarding—

8 (A) the extent to which statutory require-
9 ments have caused over capitalization in the
10 loss reserves maintained by certified develop-
11 ment companies participating in the Premier
12 Certified Lenders Program established under
13 section 508 of the Small Business Investment
14 Act of 1958 (15 U.S.C. 697e); and

15 (B) alternatives for establishing and main-
16 taining loss reserves that are sufficient to pro-
17 tect the Federal Government from the risk of
18 loss associated with loans guaranteed under
19 such Program.

20 (2) TRANSMISSION OF REPORT.—The report
21 described in paragraph (1) shall be transmitted to
22 the Committee on Small Business of the House of
23 Representatives and the Committee on Small Busi-
24 ness and Entrepreneurship of the Senate not later

1 than 180 days after the date of the enactment of
2 this Act.

3 (3) LIMITATION.—The amount of the contract
4 described in paragraph (1) shall not exceed \$75,000.

5 **SEC. 244. DEBENTURE SIZE.**

6 Section 502 of the Small Business Investment Act
7 of 1958 (15 U.S.C. 696) is amended—

8 (1) by striking “The Administration may,” and
9 inserting the following:

10 “(a) IN GENERAL.—The Administration may,”;

11 (2) by striking “: *Provided, however,* That the
12 foregoing powers” and inserting the following:

13 “(b) CONDITIONS.—The authority under subsection
14 (a)”;

15 (3) in subsection (b) (as designated by para-
16 graph (2)), by amending paragraph (2) to read as
17 follows:

18 “(2) MAXIMUM AMOUNT.—Loans made by the
19 Administration under this section shall be limited
20 to—

21 “(A) \$1,500,000 for each small business
22 concern if the loan proceeds will not be directed
23 toward a goal or project described in subpara-
24 graph (B) or (C);

1 “(B) \$2,000,000 for each small business
 2 concern if the loan proceeds will be directed to-
 3 ward 1 or more of the public policy goals de-
 4 scribed under section 501(d)(3); and

5 “(C) \$2,000,000 for each small business
 6 concern if the loan proceeds will be directed to-
 7 ward manufacturing projects.”.

8 **SEC. 245. JOB CREATION OR RETENTION STANDARDS.**

9 Section 501 of the Small Business Investment Act
 10 of 1958 (15 U.S.C. 695) is amended by striking the un-
 11 designated paragraph at the end and inserting the fol-
 12 lowing:

13 “(e) JOB CREATION OR RETENTION.—

14 “(1) IN GENERAL.—A project being funded by
 15 the debenture is deemed to satisfy the job creation
 16 or retention requirement under subsection (d)(1) if
 17 the project creates or retains 1 job opportunity for
 18 every \$50,000 guaranteed by the Administration.

19 “(2) TEMPORARY JOB CREATION WAIVER.—

20 “(A) IN GENERAL.—If a development com-
 21 pany fails to meet the job creation and reten-
 22 tion requirements under this section, the com-
 23 pany may apply for a temporary waiver from
 24 the Administration. Not later than 30 days
 25 after the request for such waiver, the Adminis-

tration shall respond to the request and may temporarily waive the requirement if the development company shows reasonable cause for its failure to meet the job creation and retention requirements under this section and demonstrates how it intends to attain such requirements in the future.

“(B) AGGREGATION OF GOALS AND OBJECTIVES.—If a project meets the economic development objectives or public policy goals under paragraphs (2) and (3) of subsection (d), the project does not need to meet the individual job creation or retention requirements for that particular project if the outstanding portfolio of the development company meets or exceeds the job creation or retention criteria under subsection (d)(1).”.

SEC. 246. SIMPLIFIED APPLICATIONS.

(a) LOANS OF \$400,000 OR LESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop a shorter, more concise, and simplified application form for loan guarantees involving not more than \$400,000 authorized under

1 section 504 of the Small Business Investment Act of
2 1958 (15 U.S.C. 697a).

3 (2) AVAILABILITY TO CERTIFIED DEVELOP-
4 MENT COMPANIES.—The form developed under para-
5 graph (1) shall be made available to certified devel-
6 opment companies not later than 180 days after the
7 date of enactment of this Act.

8 (b) ALL OTHER LOANS.—

9 (1) IN GENERAL.—Not later than 270 days
10 after the date of enactment of this Act, the Adminis-
11 trator shall develop a shorter, more concise, and
12 simplified application form for all loan guarantees
13 authorized under section 504 of the Small Business
14 Investment Act of 1958 (15 U.S.C. 697a), including
15 those described in subsection (a).

16 (2) AVAILABILITY TO CERTIFIED DEVELOP-
17 MENT COMPANIES.—The form developed under para-
18 graph (1) shall be made available to certified devel-
19 opment companies not later than 270 days after the
20 date of enactment of this Act.

21 **SEC. 247. CHILD CARE LENDING PILOT PROGRAM.**

22 (a) LOANS AUTHORIZED.—Section 502 of the Small
23 Business Investment Act of 1958 (15 U.S.C. 696) is
24 amended—

25 (1) in the matter preceding paragraph (1)—

1 (A) by striking “The Administration” and
 2 inserting the following:

3 “(a) AUTHORIZATION.—The Administration”;

4 (B) by striking “and such loans” and in-
 5 serting “. Such loans”;

6 (C) by striking “: *Provided, however,* That
 7 the foregoing powers shall be subject to the fol-
 8 lowing restrictions and limitations:” and insert-
 9 ing a period; and

10 (D) by adding at the end the following:

11 “(b) RESTRICTIONS AND LIMITATIONS.—The author-
 12 ity under subsection (a) shall be subject to the following
 13 restrictions and limitations:”; and

14 (2) in paragraph (1)—

15 (A) by inserting after “USE OF PRO-
 16 CEEDS.—” the following:

17 “(A) IN GENERAL.—”; and

18 (B) by adding at the end the following:

19 “(B) LOANS TO SMALL, NONPROFIT CHILD
 20 CARE BUSINESSES.—

21 “(i) IN GENERAL.—Notwithstanding
 22 subsection (a)(1), the proceeds of any loan
 23 described in subsection (a) may be used by
 24 the certified development company to as-

1 sist small, nonprofit child care businesses,
2 provided that—

3 “(I) the loan will be used for a
4 sound business purpose that has been
5 approved by the Administration;

6 “(II) each such business receiv-
7 ing financial assistance meets all of
8 the same eligibility requirements ap-
9 plicable to for-profit businesses under
10 this title, except for status as a for-
11 profit business;

12 “(III) 1 or more individuals has
13 personally guaranteed the loan;

14 “(IV) the small, non-profit child
15 care business has clear and singular
16 title to the collateral for the loan; and

17 “(V) the small, non-profit child
18 care business has sufficient cash flow
19 from its operations to meet its obliga-
20 tions on the loan and its normal and
21 reasonable operating expenses.

22 “(ii) LIMITATION ON VOLUME.—Not
23 more than 7 percent of the total number of
24 loans guaranteed in any fiscal year under

1 this title may be awarded under the pilot
2 program.

3 “(iii) DEFINED TERM.—For purposes
4 of this subparagraph, the term ‘small, non-
5 profit child care business’ means an estab-
6 lishment that—

7 “(I) is organized in accordance
8 with section 501(c)(3) of the Internal
9 Revenue Code of 1986;

10 “(II) is primarily engaged in pro-
11 viding child care for infants, toddlers,
12 pre-school, or pre-kindergarten chil-
13 dren (or any combination thereof),
14 may provide care for older children
15 when they are not in school, and may
16 offer pre-kindergarten educational
17 programs;

18 “(III) including its affiliates, has
19 tangible net worth that does not ex-
20 ceed \$7,000,000, and has average net
21 income (excluding any carryover
22 losses) for the preceding 2 completed
23 fiscal years that does not exceed
24 \$2,500,000; and

1 “(IV) is licensed as a child care
2 provider by the District of Columbia,
3 the insular area, or the State in which
4 it is located.

5 “(iv) SUNSET PROVISION.—This sub-
6 paragraph shall remain in effect until Sep-
7 tember 30, 2006, and shall apply to all
8 loans authorized under this subparagraph
9 that are applied for, approved, or dis-
10 bursed during the period beginning on the
11 date of enactment of the Small Business
12 Administration 50th Anniversary Reau-
13 thorization Act of 2003 and ending on
14 September 30, 2006.”.

15 (b) REPORTS.—

16 (1) SMALL BUSINESS ADMINISTRATION.—

17 (A) IN GENERAL.—Not later than 6
18 months after the date of enactment of this Act,
19 and every 6 months thereafter until September
20 30, 2006, the Administrator shall submit a re-
21 port on the implementation of the program
22 under subsection (a) to—

23 (i) the Committee on Small Business
24 and Entrepreneurship of the Senate; and

1 (ii) the Committee on Small Business
2 of the House of Representatives.

3 (B) CONTENTS.—The report under sub-
4 paragraph (A) shall contain—

5 (i) the date on which the program is
6 implemented;

7 (ii) the date on which the rules are
8 issued pursuant to subsection (c); and

9 (iii) the number and dollar amount of
10 loans under the program applied for, ap-
11 proved, and disbursed during the previous
12 6 months—

13 (I) with respect to nonprofit child
14 care business; and

15 (II) with respect to for profit
16 child care business.

17 (2) GENERAL ACCOUNTING OFFICE.—

18 (A) IN GENERAL.—Not later than March
19 31, 2006, the Comptroller General of the
20 United States shall submit a report on the child
21 care small business loans authorized by section
22 502(b)(1)(B) of the Small Business Investment
23 Act of 1958, as added by this Act, to—

24 (i) the Committee on Small Business
25 and Entrepreneurship of the Senate; and

1 (ii) the Committee on Small Business
2 of the House of Representatives.

3 (B) CONTENTS.—The report under sub-
4 paragraph (A) shall contain information gath-
5 ered during the first 2 years of the loan pro-
6 gram, including—

7 (i) an evaluation of the timeliness of
8 the implementation of the loan program;

9 (ii) a description of the effectiveness
10 and ease with which certified development
11 companies, lenders, and small businesses
12 have participated in the loan program;

13 (iii) a description and assessment of
14 how the loan program was marketed;

15 (iv) by location (State, insular area,
16 and District of Columbia) and in total, the
17 number of child care small businesses, cat-
18 egorized by status as a for-profit or non-
19 profit business, that—

20 (I) applied for loans under the
21 program (and whether it was a new or
22 expanding child care provider);

23 (II) were approved for loans
24 under the program; and

1 (III) received loan disbursements
2 under the program (and whether they
3 are a new or expanding child care pro-
4 vider); and

5 (v) with respect to the businesses de-
6 scribed under clause (iv)(III)—

7 (I) the number of such busi-
8 nesses in each State, insular area, and
9 District of Columbia, as of the year of
10 enactment of this Act;

11 (II) the total amount loaned to
12 such businesses under the program;

13 (III) the total number of loans to
14 such businesses under the program;

15 (IV) the average loan amount
16 and term;

17 (V) the currency rate, delin-
18 quencies, defaults, and losses of the
19 loans;

20 (VI) the number and percent of
21 children served who receive subsidized
22 assistance; and

23 (VII) the number and percent of
24 children served who are low income.

25 (C) ACCESS TO INFORMATION.—

1 (i) IN GENERAL.—The Administration
2 shall collect and maintain such information
3 as may be necessary to carry out this para-
4 graph from certified development centers
5 and child care providers, and such centers
6 and providers shall comply with a request
7 for information from the Administration
8 for that purpose.

9 (ii) PROVISION OF INFORMATION TO
10 GAO.—The Administration shall provide in-
11 formation collected under this subpara-
12 graph to the Comptroller General of the
13 United States for purposes of the report
14 required by this paragraph.

15 (c) RULEMAKING AUTHORITY.—Not later than 120
16 days after the date of enactment of this Act, the Adminis-
17 trator shall issue final rules to carry out the loan program
18 authorized by section 502(b)(1)(B) of the Small Business
19 Investment Act of 1958, as added by this Act.

20 **SEC. 248. DEFINITION OF RURAL AREA.**

21 Section 501 of the Small Business Investment Act
22 of 1958 (15 U.S.C. 695) is amended by adding at the end
23 the following:

1 “(f) DEFINITION OF RURAL AREA.—For purposes of
 2 this title, the term ‘rural area’ means any area other
 3 than—

4 “(1) a city or town with a population of not less
 5 than 50,000 inhabitants; or

6 “(2) the urbanized area adjacent to a city or
 7 town under subparagraph (A).”.

8 **Subtitle F—Surety Bond Program**

9 **SEC. 251. CLARIFICATION OF MAXIMUM SURETY BOND** 10 **GUARANTEE.**

11 (a) IN GENERAL.—Section 411(a)(1) of the Small
 12 Business Investment Act of 1958 (15 U.S.C. 694b(a)(1))
 13 is amended by striking “contract up to” and inserting
 14 “total work order or contract amount at the time of bond
 15 execution that does not exceed”.

16 **SEC. 252. AUTHORIZATION OF PREFERRED SURETY BOND** 17 **GUARANTEE PROGRAM.**

18 Section 411(a) of the Small Business Investment Act
 19 of 1958 (15 U.S.C. 694b(a)) is amended by adding at the
 20 end the following: “This paragraph shall remain in effect
 21 through September 30, 2006.”.

22 **Subtitle G—Miscellaneous**

23 **SEC. 261. COORDINATION OF SBA LOANS.**

24 Section 7(a)(3) of the Small Business Act (15 U.S.C.
 25 636(a)(3)) is amended—

1 (1) by inserting “TOTAL AMOUNT OF
2 LOANS.—” before “No loan”; and

3 (2) by amending subparagraph (A) to read as
4 follows:

5 “(A) if the total amount outstanding and
6 committed (by participation or otherwise) to the
7 borrower under section 7(a) would exceed
8 \$1,000,000 (or if the gross loan amount would
9 exceed \$2,000,000), except as provided in sub-
10 paragraph (B), plus an amount not to exceed
11 the maximum amount of a development com-
12 pany financing under title V of the Small Busi-
13 ness Investment Act of 1958 (15 U.S.C. 695 et
14 seq.), and the Administration shall report to
15 Congress in its annual budget request and per-
16 formance plan on the number of small business
17 concerns that have financings under both sec-
18 tion 7(a) and under title V of the Small Busi-
19 ness Investment Act of 1958, and the total
20 amount and general performance of such
21 financings.”.

22 **SEC. 262. LEASING OPTIONS FOR 7(a) AND 504 BORROWERS.**

23 (a) 7(a) LOANS.—Section 7(a)(28) of the Small Busi-
24 ness Act (15 U.S.C. 636(a)(28)) is amended to read as
25 follows:

1 “(28) LEASING.—In addition to such other
2 lease arrangements as may be authorized by the Ad-
3 ministration, a borrower under this section may
4 lease, permanently or for a short term, to 1 or more
5 tenants, not more than 40 percent of any property
6 purchased or constructed as part of a project fi-
7 nanced under this section if the borrower perma-
8 nently occupies and uses not less than 60 percent of
9 the total business space of the property.”.

10 (b) 504 LOANS.—Subsection (b)(5) of section 502 of
11 the Small Business Investment Act of 1958 (15 U.S.C.
12 696), as redesignated by this Act, is amended to read as
13 follows:

14 “(5) LEASING.—In addition to such other lease
15 arrangements as may be authorized by the Adminis-
16 tration, a borrower under this title may lease, per-
17 manently or for a short term, to 1 or more tenants,
18 not more than 40 percent of any property purchased
19 or constructed as part of a project financed under
20 this title if the borrower permanently occupies and
21 uses not less than 60 percent of the total business
22 space of the property.”.

1 **SEC. 263. CALCULATION OF FINANCING LIMITATION FOR**
2 **SMALL BUSINESS INVESTMENT COMPANIES.**

3 Section 306 of the Small Business Investment Act
4 of 1958 (15 U.S.C. 686) is amended by inserting after
5 subsection (a) the following:

6 “(b) In calculating the 20 percent limitation under
7 subsection (a) or any guarantee required of a small busi-
8 ness investment company by the Administration, only 50
9 percent of the value of any loans issued under either sec-
10 tion 7(a) of the Small Business Act or title V of this Act,
11 which are received by the enterprise in which the small
12 business investment company has issued commitments,
13 shall be taken into consideration, but for any 1 such enter-
14 prise, a small business investment company may not si-
15 multaneously take advantage of this discounted calcula-
16 tion for loans under both section 7(a) of the Small Busi-
17 ness Act (15 U.S.C. 636(a)) and title V of this Act.”.

18 **SEC. 264. ESTABLISHING ALTERNATIVE SIZE STANDARD.**

19 Section 3(a)(3) of the Small Business Act (15 U.S.C.
20 632(a)(3)) is amended—

21 (1) by striking “When establishing” and insert-
22 ing the following: “ESTABLISHMENT OF SIZE
23 STANDARDS.—

24 “(1) IN GENERAL.—When establishing”; and

25 (2) by adding at the end the following:

1 “(2) ALTERNATIVE SIZE STANDARD.—The Ad-
 2 ministrators shall establish an alternative size stand-
 3 ard pursuant to paragraph (2), which—

4 “(A) shall be applicable to loan applicants
 5 under section 7(a) of this Act or title V of the
 6 Small Business Investment Act of 1958 (15
 7 U.S.C. 695 et seq.); and

8 “(B) shall utilize the maximum net worth
 9 and maximum net income of the prospective
 10 borrower as an alternative to the use of indus-
 11 try standards.”.

12 **SEC. 265. PILOT PROGRAM FOR GUARANTEES ON POOLS OF**
 13 **NON-SBA LOANS.**

14 Title IV of the Small Business Investment Act of
 15 1958 (15 U.S.C. 692 et seq.) is amended by adding at
 16 the end the following:

17 “PART C—CREDIT ENHANCEMENT GUARANTEES

18 “SEC. 420. (a) The Administration is authorized,
 19 upon such terms and conditions as it may prescribe, in
 20 order to encourage lenders to increase the availability of
 21 small business financing by improving such lenders’ access
 22 to reasonable sources of funding, to provide a credit en-
 23 hancement guarantee, or commitment to guarantee, of the
 24 timely payment of a portion of the principal and interest
 25 on securities issued and managed by not less than 2 and

1 not more than 5 qualified entities authorized and approved
2 by the Administration.

3 “(b)(1) The Administration may provide its credit en-
4 hancement guarantees in respect of securities that rep-
5 resent interests in, or other obligations issued by, a trust,
6 pool, or other entity whose assets (other than the Adminis-
7 tration’s credit enhancement guarantee and credit en-
8 hancements provided by other parties) consist of loans
9 made to small business concerns.

10 “(2) All loans under paragraph (1) shall be origi-
11 nated, purchased, or assembled and managed consistent
12 with requirements prescribed by the Administration in
13 connection with this credit enhancement guarantee pro-
14 gram.

15 “(3) The Administration shall prescribe requirements
16 to be observed by the issuers and managers of the securi-
17 ties covered by credit enhancement guarantees to ensure
18 the safety and soundness of the credit enhancement guar-
19 antee program.

20 “(4) The Administration may authorize affiliates of
21 lenders designated as Preferred Lenders (as defined in the
22 Small Business Act) to become issuers and managers of
23 securities covered by credit enhancement guarantees if not
24 more than 50 percent of the voting and economic owner-
25 ship interests of any such issuer or manager are owned,

1 directly or indirectly, by any single Preferred Lender or
2 any person directly or indirectly controlling such Preferred
3 Lender.

4 “(c) The full faith and credit of the United States
5 is pledged to the payment of all amounts the Administra-
6 tion may be required to pay as a result of credit enhance-
7 ment guarantees under this section.

8 “(d)(1) The Administration may issue an amount of
9 credit enhancement guarantees in any fiscal year not ex-
10 ceeding the amount of the business loan and development
11 company debenture guarantee authority available to the
12 Administration for such year under this Act and the Small
13 Business Act.

14 “(2) The Administration shall set the percentage and
15 priority of each credit enhancement guarantee on issued
16 securities so that the amount of the Administration’s an-
17 ticipated net loss (if any) as a result of such guarantee
18 is fully reserved in a credit subsidy account funded in
19 whole or in part by fees collected by the Administration.

20 “(3) The Administration shall charge and collect a
21 fee from the issuer based on the Administration’s guaran-
22 teed amount of issued securities, but the amount of such
23 fee may not exceed the estimated credit subsidy cost of
24 the Administration’s credit enhancement guarantee.

25 “(e) REPORTING AND ANALYSIS.—

1 “(1) REPORTING.—During the development and
2 implementation of the pilot program, the Adminis-
3 trator shall provide a report on the status of the
4 pilot program under this section to Congress in each
5 annual budget request and performance plan.

6 “(2) ANALYSIS AND REPORT.—Not later than
7 December 30, 2005, the Comptroller General shall—

8 “(A) conduct an analysis of the pilot pro-
9 gram under this section; and

10 “(B) submit a report to Congress that con-
11 tains a summary of the analysis conducted
12 under subparagraph (A) and a description of
13 any effects, not attributable to other causes, of
14 the pilot program on the lending programs
15 under section 7(a) of the Small Business Act
16 (15 U.S.C. 636(a)) and title V of this Act.

17 “(3) IMPLEMENTATION.—

18 “(A) REPORT.—After completing oper-
19 ational guidelines to carry out the pilot pro-
20 gram under this section, the Administration
21 shall submit a report, which describes the meth-
22 od in which the pilot program will be imple-
23 mented, to—

24 “(i) the Committee on Small Business
25 and Entrepreneurship of the Senate; and

1 “(ii) the Committee on Small Busi-
 2 ness of the House of Representatives.

3 “(B) TIMING.—The Administration shall
 4 not implement the pilot program under this sec-
 5 tion until the date that is 50 days after the re-
 6 port has been submitted under subparagraph
 7 (A).

8 “(f) SUNSET PROVISION.—This section shall remain
 9 in effect until September 30, 2006.”.

10 **Subtitle H—New Markets Venture** 11 **Capital**

12 **SEC. 271. TIME FRAME FOR RAISING PRIVATE CAPITAL.**

13 Section 354(d) of the Small Business Investment Act
 14 of 1958 (15 U.S.C. 689c(d)) is amended by striking “The
 15 Administrator shall” and all that follows through “fol-
 16 lowing requirements:” and inserting the following: “The
 17 Administrator shall give each conditionally approved com-
 18 pany 2 years to satisfy the requirements under this sub-
 19 section. If a conditionally approved company meets these
 20 requirements before the end of such 2-year period, the Ad-
 21 ministrator shall proceed to final approval according to the
 22 following requirements:”.

23 **SEC. 272. DEFINITION OF LOW-INCOME GEOGRAPHIC AREA.**

24 Section 351(3)(A)(ii)(II) of the Small Business In-
 25 vestment Act of 1958 (15 U.S.C. 689(3)(A)(ii)(II)) is

1 amended by striking “household income” and all that fol-
 2 lows and inserting “family income for such tract does not
 3 exceed 80 percent of the greater of statewide median fam-
 4 ily income or metropolitan area median family income.”.

5 **Subtitle I—Small Business** 6 **Investment Company Program**

7 **SEC. 281. INVESTMENT OF EXCESS FUNDS.**

8 Section 308(b) of the Small Business Investment Act
 9 of 1958 (15 U.S.C. 687(b)) is amended by striking the
 10 last sentence and inserting the following: “Such companies
 11 with outstanding financings are authorized to invest funds
 12 not reasonably needed for their operations in—

13 “(1) direct obligations of, or obligations guaran-
 14 teed as to principal and interest by, the United
 15 States;

16 “(2) in savings account or certificates of deposit
 17 maturing within 1 year that are issued by any insti-
 18 tution, whose accounts are Federally insured; or

19 “(3) in such other investment securities, mutual
 20 funds, or instruments that solely consist of, invest
 21 in, or are supported by the instruments described in
 22 paragraphs (1) and (2).”.

23 **SEC. 282. MAXIMUM PRIORITIZED PAYMENT RATE.**

24 Section 303(g) of the Small Business Investment Act
 25 of 1958 (15 U.S.C. 683(g)) is amended—

1 (1) in the matter preceding paragraph (1)—

2 (A) by striking “In order” and inserting
3 “GUARANTEES OF PARTICIPATING SECURI-
4 TIES.—In order”; and

5 (B) by striking “For purposes of this sec-
6 tion,” and all that follows through “the extent
7 of earnings.”; and

8 (2) in paragraph (2), by striking “1.38 per-
9 cent” and inserting “1.7 percent”.

10 **SEC. 283. IMPROVED DISTRIBUTION REQUIREMENTS.**

11 Section 303(g)(9) of the Small Business Investment
12 Act of 1958 (15 U.S.C. 683(g)(9)) is amended to read
13 as follows:

14 “(9) After making any distribution pursuant to
15 paragraph (8), a company with participating securi-
16 ties outstanding may distribute the balance of in-
17 come to its investors if—

18 “(A) there are no accumulated and unpaid
19 prioritized payments;

20 “(B) any amounts received by the Admin-
21 istration under this paragraph and paragraph
22 (8) are first applied as prepayment of the prin-
23 cipal amount of the outstanding participating
24 securities or debentures of the company at the
25 time of such distribution and then applied to

1 the profit participation under paragraph (11);
 2 and

3 “(C) any distributions under this para-
 4 graph are made to private investors and to the
 5 Administration in the ratio of private capital to
 6 leverage as of the date immediately preceding
 7 the distribution until the outstanding partici-
 8 pating securities or debentures of the company
 9 have been paid in full, after which any remain-
 10 ing distributions under this paragraph are
 11 made to private investors and to the Adminis-
 12 tration in the ratio provided for the distribution
 13 of profits under paragraph (11).”.

14 **TITLE III—ENTREPRENEURIAL**
 15 **DEVELOPMENT PROGRAMS**

16 **Subtitle A—Office of**
 17 **Entrepreneurial Development**

18 **SEC. 301. SERVICE CORPS OF RETIRED EXECUTIVES.**

19 (a) IN GENERAL.—Section 8(b)(1)(B) of the Small
 20 Business Act (15 U.S.C. 637(b)(1)(B)) is amended—

21 (1) by striking “this Act; and to”, and inserting
 22 “this Act. To”;

23 (2) by striking “may maintain at its head-
 24 quarters” and all that follows through “That any”
 25 and inserting “shall maintain at its headquarters

(3) by striking the period at the end and inserting the following: “and the management of the contributions received.”.

(b) REGULATIONS.—The Administration shall, not later than 180 days after the date of enactment of this Act, promulgate regulations to carry out the amendments made by subsection (a).

(c) EXTENSION OF COSPONSORSHIP AUTHORITY.—
Section 401(a)(2) of the Small Business Administration
Reauthorization and Amendments Act of 1994 (15 U.S.C.
637 note, 108 Stat. 4190) is amended by striking “Sep-
tember 30, 2003” and inserting “September 30, 2006”.

(a) TERM CHANGE.—Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended—

(1) by striking “CERTIFICATION” each place it appears and inserting “ACCREDITATION”; and

(2) by striking “certification” each place it appears and inserting “accreditation”.

1 (b) PRIVACY REQUIREMENTS.—Section 21(a) of the
2 Small Business Act is amended by adding at the end the
3 following:

4 “(7) PRIVACY REQUIREMENTS.—

5 “(A) IN GENERAL.—A small business de-
6 velopment center, consortium of small business
7 development centers, or contractor or agent of
8 a small business development center may not
9 disclose the name, address, or telephone num-
10 ber of any individual or small business concern
11 receiving assistance under this section without
12 the consent of such individual or small business
13 concern, unless—

14 “(i) the Administrator is ordered to
15 make such a disclosure by a court in any
16 civil or criminal enforcement action initi-
17 ated by a Federal or State agency; or

18 “(ii) the Administrator considers such
19 a disclosure to be necessary for the pur-
20 pose of conducting a financial audit of a
21 small business development center, but a
22 disclosure under this clause shall be limited
23 to the information necessary for such
24 audit.

“(B) ADMINISTRATION USE OF INFORMATION.—This section shall not—

“(i) restrict Administration access to program activity data; or

“(ii) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

“(C) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under subparagraph (A)(ii).”.

Subtitle B—Women’s Small Business Ownership Programs

SEC. 311. OFFICE OF WOMEN’S BUSINESS OWNERSHIP.

Section 29(g) of the Small Business Act (15 U.S.C. 656(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)(i), by striking “in the areas” and all that follows through the end of subclause (I), and inserting the following: “to address issues concerning operations, manufacturing, technology, finance, retail and product sales, international trade, and other disciplines required for—

1 “(I) starting, operating, and
 2 growing a small business concern;”;
 3 and

4 (B) in subparagraph (C), by inserting “,
 5 the National Women’s Business Council, and
 6 any association of women’s business centers, as
 7 defined in subsection (a)” before the period at
 8 the end; and

9 (2) by adding at the end the following:

10 “(3) PROGRAMS AND SERVICES FOR WOMEN-
 11 OWNED SMALL BUSINESSES.—The Assistant Admin-
 12 istrator, in consultation with the National Women’s
 13 Business Council, the Interagency Committee on
 14 Women’s Business Enterprise, and 1 or more asso-
 15 ciations of women’s business centers, shall develop
 16 programs and services for women-owned businesses
 17 (as defined in section 408 of the Women’s Business
 18 Ownership Act of 1988 (15 U.S.C. 631 note)) in
 19 business areas, which may include—

20 “(A) manufacturing;

21 “(B) technology;

22 “(C) professional services;

23 “(D) retail and product sales;

24 “(E) travel and tourism;

25 “(F) international trade; and

1 “(G) Federal Government contract busi-
2 ness development.

3 “(4) TRAINING.—The Administration shall pro-
4 vide annual programmatic and financial oversight
5 training for women’s business ownership representa-
6 tives and district office technical representatives of
7 the Administration to enable these representatives to
8 carry out their responsibilities under this section.

9 “(5) GRANT PROGRAM IMPROVEMENT.—The
10 Administration shall improve the women’s business
11 center grant proposal process and the programmatic
12 and financial oversight process by—

13 “(A) providing notice to the public of each
14 women’s business center grant announcement
15 for an initial and renewal grant, not later than
16 6 months before awarding such grant;

17 “(B) providing notice to grant applicants
18 and recipients of program evaluation criteria,
19 not later than 12 months before any such eval-
20 uation;

21 “(C) reducing paperwork and reporting re-
22 quirements for grant applicants and recipients;

23 “(D) standardizing the oversight and re-
24 view process of the Administration; and

1 “(E) providing to each women’s business
 2 center, not later than 30 days after the comple-
 3 tion of a site visit at that center, a copy of site
 4 visit reports and evaluation reports prepared by
 5 district office technical representatives or Ad-
 6 ministration officials.”.

7 **SEC. 312. WOMEN’S BUSINESS CENTER PROGRAM.**

8 (a) WOMEN’S BUSINESS CENTER GRANTS PRO-
 9 GRAM.—Section 29 of the Small Business Act (15 U.S.C.
 10 656) is amended—

11 (1) in subsection (a)—

12 (A) by redesignating paragraphs (2), (3),
 13 and (4), as paragraphs (3), (4), and (5), re-
 14 spectively; and

15 (B) by inserting after paragraph (1) the
 16 following:

17 “(2) the term ‘association of women’s business
 18 centers’ means an organization that represents not
 19 less than 30 percent of the women’s business centers
 20 that are participating in a program under this sec-
 21 tion and whose primary purpose is to represent
 22 women’s business centers;”; and

23 (2) by striking subsections (b) through (f) and
 24 inserting the following:

25 “(b) GRANTS AUTHORIZED.—

1 “(1) IN GENERAL.—The Administration may
2 award initial and renewal grants of not more than
3 \$150,000 per year, which shall be known as ‘wom-
4 en’s business center grants’, to private nonprofit or-
5 ganizations to conduct projects for the benefit of
6 small business concerns owned and controlled by
7 women. At the end of the initial 4-year grant period,
8 and every 3 years thereafter, the grant recipient
9 may apply to renew the grant in accordance with
10 this subsection and subsection (e)(2). In the event
11 that the Administration has insufficient funds to
12 provide grants of \$150,000, for each eligible wom-
13 en’s business center, available funds shall be allo-
14 cated evenly to eligible centers, unless any center re-
15 quests a lower amount than the allocable amount.

16 “(2) COOPERATIVE AGREEMENT AUTHORITY.—

17 “(A) IN GENERAL.—The Administration
18 may enter into Federal cooperative agreements
19 with grant recipients under this subsection to
20 perform the services described under paragraph
21 (3) only to the extent and in the amount pro-
22 vided by appropriated funds.

23 “(B) TERMINATION.—

24 “(i) IN GENERAL.—If any grant re-
25 cipient under this subsection does not ful-

1 fill its grant obligations, after advanced no-
 2 tification, during the period of the grant,
 3 the Administration may terminate the
 4 grant.

5 “(ii) EXCEPTION.—Notwithstanding a
 6 grant recipient’s violation of a grant obli-
 7 gation under this section, the Administra-
 8 tion may continue to fund the grant if the
 9 grant recipient is making a good faith ef-
 10 fort to comply with such obligation.

11 “(3) USE OF FUNDS.—Grants awarded under
 12 paragraph (1) may be used to provide training and
 13 counseling in the areas of—

14 “(A) pre-business, business startup, and
 15 business operations;

16 “(B) financial planning assistance;

17 “(C) procurement assistance;

18 “(D) management assistance; and

19 “(E) marketing assistance.

20 “(4) MATCHING REQUIREMENT.—

21 “(A) WOMEN’S BUSINESS CENTER
 22 GRANTS.—As a condition of receiving financial
 23 assistance under this section, the grant recipi-
 24 ent shall agree to obtain, after its application
 25 has been approved and notice of award has

1 been issued, cash contributions from non-Fed-
2 eral sources as follows:

3 “(i) In the first and second years, 1
4 non-Federal dollar for each 2 Federal dol-
5 lars provided under the 4-year grant.

6 “(ii) In the third and fourth years, 1
7 non-Federal dollar for each Federal dollar
8 provided under the 4-year grant.

9 “(iii) In each renewal period, 1 non-
10 Federal dollar for each Federal dollar pro-
11 vided under the 3-year grant.

12 “(B) FORM OF NON-FEDERAL CONTRIBU-
13 TIONS.—Not more than $\frac{1}{2}$ of the non-Federal
14 sector matching assistance may be in the form
15 of in-kind contributions that are budget line
16 items only, including office equipment and of-
17 fice space.

18 “(C) FAILURE TO OBTAIN NON-FEDERAL
19 FUNDING.—

20 “(i) ADVANCE DISBURSEMENTS.—If
21 any grant recipient fails to obtain the re-
22 quired non-Federal contribution during
23 any project year, it shall not be eligible for
24 advance disbursements pursuant to sub-

1 paragraph (D) during the remainder of
2 that project year.

3 “(ii) ABILITY TO OBTAIN NON-FED-
4 ERAL FUNDING.—Before approving assist-
5 ance to a grant recipient that has failed to
6 obtain the required non-Federal contribu-
7 tion for any other projects under this Act,
8 the Administration shall require the grant
9 recipient to certify that it will be able to
10 obtain the requisite non-Federal funding
11 and enter a written finding setting forth
12 the reasons for making such determina-
13 tion.

14 “(D) FORM OF FEDERAL CONTRIBU-
15 TIONS.—The financial assistance authorized
16 pursuant to this section may be made by grant
17 or cooperative agreement and may contain such
18 provision, as necessary, to provide for payments
19 in lump sum or installments, and in advance or
20 by way of reimbursement. The Administration
21 may disburse up to 25 percent of each year’s
22 Federal share awarded to a grant recipient
23 after notice of the award has been issued and
24 before the non-Federal sector matching funds
25 are obtained.

1 “(5) APPLICATION FOR AN INITIAL GRANT.—

2 Each organization desiring an initial grant under
3 this subsection shall submit to the Administration
4 an application that contains—

5 “(A) a certification that the applicant—

6 “(i) is a private nonprofit organiza-
7 tion;

8 “(ii) has designated an executive di-
9 rector or program manager, who may be
10 compensated from grant funds or other
11 sources, to manage the center; and

12 “(iii) as a condition of receiving a
13 grant under this subsection, agrees—

14 “(I) to receive a site visit as part
15 of the final selection process;

16 “(II) to undergo an annual pro-
17 grammatic and financial examination;
18 and

19 “(III) to the maximum extent
20 practicable, to remedy any problems
21 identified pursuant to the site visit or
22 examination under subclauses (I) and
23 (II);

24 “(B) information demonstrating that the
25 applicant has the ability and resources to meet

1 the needs of the market to be served by the
2 women's business center site for which an ini-
3 tial grant is sought, including the ability to
4 comply with the matching requirement under
5 paragraph (4);

6 “(C) information relating to assistance to
7 be provided by the women's business center site
8 for which an initial grant is sought in the area
9 in which the site is located;

10 “(D) information demonstrating the effec-
11 tive experience of the applicant in—

12 “(i) conducting financial, manage-
13 ment, and marketing assistance programs,
14 as described under paragraph (3), which
15 are designed to teach or upgrade the busi-
16 ness skills of women who are business own-
17 ers or potential business owners;

18 “(ii) providing training and services to
19 a representative number of women who are
20 both socially and economically disadvan-
21 taged; and

22 “(iii) using resource partners of the
23 Administration and other entities, such as
24 universities;

“(E) a 4-year plan that projects the ability of the women’s business center site for which an initial grant is sought—

“(i) to serve women business owners or potential owners in the future by improving training and counseling activities; and

“(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

“(F) any additional information that the Administration may reasonably require.

“(6) REVIEW AND APPROVAL OF APPLICATIONS FOR AN INITIAL GRANT.—

“(A) IN GENERAL.—The Administration shall—

“(i) review each application submitted under paragraph (5) based on the information provided in such paragraph and the criteria set forth under subparagraph (B); and

“(ii) as part of the final selection process, conduct a site visit at each wom-

1 en’s business center for which an initial
2 grant is sought.

3 “(B) SELECTION CRITERIA.—

4 “(i) IN GENERAL.—The Administra-
5 tion shall evaluate applicants in accordance
6 with predetermined selection criteria that
7 shall be stated in terms of relative impor-
8 tance. Such criteria and their relative im-
9 portance shall be made publicly available
10 and stated in each solicitation for applica-
11 tions made by the Administration.

12 “(ii) REQUIRED CRITERIA.—The se-
13 lection criteria for an initial grant under
14 clause (i) shall include—

15 “(I) the experience of the appli-
16 cant in conducting programs or ongo-
17 ing efforts designed to teach or up-
18 grade the business skills of women
19 business owners or potential owners;

20 “(II) the ability of the applicant
21 to commence a project within a min-
22 imum amount of time;

23 “(III) the ability of the applicant
24 to provide training and services to a
25 representative number of women who

1 are both socially and economically dis-
2 advantaged; and

3 “(IV) the location for the wom-
4 en’s business center site proposed by
5 the applicant.

6 “(C) RECORD RETENTION.—The Adminis-
7 tration shall maintain a copy of each applica-
8 tion submitted under this paragraph for not
9 less than 7 years.

10 “(7) APPLICATION FOR A RENEWAL GRANT.—
11 Each organization desiring a renewal grant under
12 this subsection, shall submit to the Administration,
13 not later than 3 months before the expiration of an
14 existing grant under this subsection, an application
15 that contains—

16 “(A) a certification that the applicant—

17 “(i) is a private nonprofit organiza-
18 tion;

19 “(ii) has designated an executive di-
20 rector or program manager to manage the
21 center; and

22 “(iii) as a condition of receiving a
23 grant under this subsection, agrees—

24 “(I) to receive a site visit as part
25 of the final selection process;

1 “(II) to submit, for the preceding
2 2 years, annual programmatic and fi-
3 nancial examination reports or cer-
4 tified copies of the applicant’s compli-
5 ance supplemental audits under OMB
6 Circular A–133; and

7 “(III) to the maximum extent
8 practicable, to remedy any problems
9 identified pursuant to the site visit or
10 examination under subclauses (I) and
11 (II);

12 “(B) information demonstrating that the
13 applicant has the ability and resources to meet
14 the needs of the market to be served by the
15 women’s business center site for which a re-
16 newal grant is sought, including the ability to
17 comply with the matching requirement under
18 paragraph (4);

19 “(C) information relating to assistance to
20 be provided by the women’s business center site
21 for which a renewal grant is sought in the area
22 in which the site is located;

23 “(D) information demonstrating the utili-
24 zation of resource partners of the Administra-
25 tion and other entities;

1 “(E) a 3-year plan that projects the ability
2 of the women’s business center site for which a
3 renewal grant is sought—

4 “(i) to serve women business owners
5 or potential owners in the future by im-
6 proving training and counseling activities;
7 and

8 “(ii) to provide training and services
9 to a representative number of women who
10 are both socially and economically dis-
11 advantaged; and

12 “(F) any additional information that the
13 Administration may reasonably require.

14 “(8) REVIEW AND APPROVAL OF APPLICATIONS
15 FOR A RENEWAL GRANT.—

16 “(A) IN GENERAL.—The Administration
17 shall—

18 “(i) review each application submitted
19 under paragraph (7) based on the informa-
20 tion provided in such paragraph and the
21 criteria set forth under subparagraph (B);
22 and

23 “(ii) as part of the final selection
24 process, conduct a site visit at each wom-

1 en’s business center for which a renewal
2 grant is sought.

3 “(B) SELECTION CRITERIA.—The Admin-
4 istration shall evaluate applicants in accordance
5 with predetermined selection criteria that shall
6 be stated in terms of relative importance. Such
7 criteria and their relative importance shall be
8 made publicly available and stated in each solie-
9 itation for applications made by the Adminis-
10 tration.

11 “(C) CONDITIONS FOR CONTINUED FUND-
12 ING.—In determining whether to renew a grant
13 or cooperative agreement with a women’s busi-
14 ness center, the Administration—

15 “(i) shall consider the results of the
16 most recent evaluation of the center, and,
17 to a lesser extent, previous evaluations;
18 and

19 “(ii) may withhold such renewal, if
20 the Administration determines that the
21 center has failed to provide the information
22 required to be provided under this sub-
23 section, or the information provided by the
24 center is inadequate.

1 “(D) CONTINUING GRANT AND COOPERA-
2 TIVE AGREEMENT AUTHORITY.—

3 “(i) IN GENERAL.—The authority of
4 the Administrator to enter into grants or
5 cooperative agreements under this sub-
6 section shall be in effect for each fiscal
7 year only to the extent and in the amounts
8 as are provided in advance in appropria-
9 tions Acts.

10 “(ii) RENEWAL.—After the Adminis-
11 trator has entered into a grant or coopera-
12 tive agreement with any women’s business
13 center under this subsection, it shall not
14 suspend, terminate, or fail to renew or ex-
15 tend any such grant or cooperative agree-
16 ment unless the Administrator provides the
17 center with written notification setting
18 forth the reasons therefore and affords the
19 center an opportunity for a hearing, ap-
20 peal, or other administrative proceeding
21 under chapter 5 of title 5, United States
22 Code.

23 “(E) RECORD RETENTION.—The Adminis-
24 tration shall maintain a copy of each applica-

1 tion submitted under this paragraph for not
2 less than 7 years.

3 “(9) DATA COLLECTION.—Consistent with the
4 annual report to Congress under subsection (g),
5 each women’s business center site that is awarded
6 an initial or renewal grant shall collect information
7 relating to—

8 “(A) the number of individuals counseled
9 or trained;

10 “(B) the number of hours of counseling
11 provided;

12 “(C) the number of workshops conducted;

13 “(D) the number of startup small business
14 concerns formed; and

15 “(E) the number of jobs created or main-
16 tained at assisted small business concerns.

17 “(10) PRIVACY REQUIREMENTS.—

18 “(A) IN GENERAL.—A women’s business
19 center may not disclose the name, address, or
20 telephone number of any individual or small
21 business concern receiving assistance under this
22 section without the consent of such individual
23 or small business concern unless—

24 “(i) the Administrator is ordered to
25 make such a disclosure by a court in any

1 civil or criminal enforcement action initi-
 2 ated by a Federal or State agency; or

3 “(ii) the Administrator considers such
 4 a disclosure to be necessary for the pur-
 5 pose of conducting a financial audit of a
 6 small business development center, but a
 7 disclosure under this clause shall be limited
 8 to the information necessary for such
 9 audit.

10 “(B) ADMINISTRATION USE OF INFORMA-
 11 TION.—This section shall not—

12 “(i) restrict Administration access to
 13 program activity data; or

14 “(ii) prevent the Administration from
 15 using client information (other than the in-
 16 formation described in subparagraph (A))
 17 to conduct client surveys.

18 “(C) REGULATIONS.—The Administrator
 19 shall issue regulations to establish standards for
 20 requiring disclosures during a financial audit
 21 under subparagraph (A)(ii).

22 “(11) TRANSITION RULES.—

23 “(A) IN GENERAL.—Notwithstanding any
 24 other provision of law, a grant or cooperative
 25 agreement that was awarded as an eligible sus-

1 tainability grant, from amounts appropriated
2 for fiscal year 2003, to operate a women’s busi-
3 ness center, shall remain in full force and effect
4 under the terms, and for the duration, of such
5 agreement, subject to the grant limitation in
6 paragraph (1).

7 “(B) EXTENSION.—If the sustainability
8 grant under subparagraph (A) is scheduled to
9 expire not later than June 30, 2005, a 1-year
10 extension shall be granted without any interrup-
11 tion of funding, subject to the grant limitation
12 in paragraph (1).

13 “(C) EFFECT ON CERTAIN EXISTING
14 PROJECTS AND RENEWAL AUTHORITY.—A
15 project being conducted by a women’s business
16 center under this subsection on the day before
17 the date of enactment of the Small Business
18 Administration 50th Anniversary Reauthoriza-
19 tion Act of 2003—

20 “(i) as a 5-year project, shall remain
21 in full force and effect under the terms
22 and for the duration of that agreement;
23 and

1 “(ii) shall be eligible to apply for a 3-
 2 year renewal grant funded at a level equal
 3 to not more than \$150,000 per year.

4 “(c) ASSOCIATIONS OF WOMEN’S BUSINESS CEN-
 5 TERS.—

6 “(1) RECOGNITION.—The Administration shall
 7 recognize the existence and activities of any associa-
 8 tion of women’s business centers established to ad-
 9 dress matters of common concern.

10 “(2) CONSULTATION.—The Administration
 11 shall consult with each association of women’s busi-
 12 ness centers (as defined in subsection (a)) to de-
 13 velop—

14 “(A) a training program for the staff of
 15 the women’s business centers and the Adminis-
 16 tration; and

17 “(B) recommendations to improve the poli-
 18 cies and procedures for governing the general
 19 operations and administration of the Women’s
 20 Business Center Program, including grant pro-
 21 gram improvements under subsection (g)(5).”.

22 (b) CONFORMING AMENDMENTS.—Section 29 of the
 23 Small Business Act (15 U.S.C. 656) is amended—

1 (1) by redesignating subsections (g), (h), (i),
 2 (j), and (k) as subsections (d), (e), (f), (g), and (h),
 3 respectively;

4 (2) in subsection (e)(2), as redesignated by
 5 paragraph (1) of this subsection, by striking “to
 6 award a contract (as a sustainability grant) under
 7 subsection (l) or”;

8 (3) in subsection (g)(1), as redesignated by
 9 paragraph (1) of this subsection, by striking “The
 10 Administration” and inserting “Not later than No-
 11 vember 1st of each year, the Administration”;

12 (4) in subsection (h), as redesignated by para-
 13 graph (1) of this subsection—

14 (A) by amending paragraph (1) to read as
 15 follows:

16 “(1) IN GENERAL.—There are authorized to be
 17 appropriated to carry out the provisions of this sec-
 18 tion, to remain available until expended—

19 “(A) \$15,000,000 for fiscal year 2004, of
 20 which \$500,000 may be used to provide supple-
 21 mental sustainability grants to women’s busi-
 22 ness centers, except that no such center may re-
 23 ceive more than a total of \$125,000 in grant
 24 funding for the grant period beginning on July
 25 1, 2003 and ending on June 30, 2004;

1 “(B) \$16,000,000 for fiscal year 2005; and

2 “(C) \$17,500,000 for fiscal year 2006.”;

3 (B) by amending paragraph (2) to read as

4 follows:

5 “(2) USE OF AMOUNTS.—Amounts made avail-

6 able under this subsection may only be used for

7 grant awards and may not be used for costs incurred

8 by the Administration in connection with the man-

9 agement and administration of the program under

10 this section.”; and

11 (C) by striking paragraph (4); and

12 (5) by striking subsection (l).

13 **SEC. 313. NATIONAL WOMEN’S BUSINESS COUNCIL.**

14 (a) COSPONSORSHIP AUTHORITY.—Section 406 of

15 the Women’s Business Ownership Act of 1988 (15 U.S.C.

16 631 note) is amended by adding at the end the following:

17 “(f) COSPONSORSHIP AUTHORITY.—The Council is

18 authorized to enter into agreements as cosponsors with

19 public and private entities, in the same manner as is pro-

20 vided in section 8(b)(1)(A) of the Small Business Act (15

21 U.S.C. 637(b)(1)(A)), to carry out its duties under this

22 section.”.

23 (b) MEMBERSHIP.—Section 407(f) of the Women’s

24 Business Ownership Act of 1988 (15 U.S.C. 631 note) is

25 amended by adding at the end the following:

1 “(3) REPRESENTATION OF MEMBER ORGANIZA-
 2 TIONS.—Notwithstanding subsection (b), a national
 3 women’s business organization or small business
 4 that is represented on the Council may, in consulta-
 5 tion with the chairperson of the Council, replace its
 6 representative member on the Council at any time
 7 during the service term to which that member was
 8 appointed.”.

9 (c) ESTABLISHMENT OF COMMITTEES.—The Wom-
 10 en’s Business Ownership Act of 1988 (15 U.S.C. 631
 11 note) is amended by inserting after section 407, the fol-
 12 lowing new section:

13 **“SEC. 408. COMMITTEES.**

14 “(a) ESTABLISHMENT.—There are established within
 15 the Council—

16 “(1) the Committee on Manufacturing, Tech-
 17 nology, and Professional Services;

18 “(2) the Committee on Travel, Tourism, Prod-
 19 uct and Retail Sales, and International Trade; and

20 “(3) the Committee on Federal Procurement
 21 and Contracting.

22 “(b) DUTIES.—The Committees established under
 23 subsection (a) shall perform such duties as the chairperson
 24 shall direct.”.

1 (d) CLEARINGHOUSE FOR HISTORICAL DOCU-
 2 MENTS.—Section 409 of the Women’s Business Owner-
 3 ship Act of 1988 (15 U.S.C. 631 note) is amended by add-
 4 ing at the end the following:

5 “(c) CLEARINGHOUSE FOR HISTORICAL DOCU-
 6 MENTS.—The Council shall serve as a clearinghouse for
 7 information on small businesses owned and controlled by
 8 women, including research conducted by other organiza-
 9 tions and individuals relating to ownership by women of
 10 small businesses in the United States.”.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—Section
 12 410(a) of the Women’s Business Ownership Act of 1988
 13 (15 U.S.C. 631 note) is amended by striking “2001
 14 through 2003, of which \$550,000” and inserting “2004
 15 through 2006, of which at least 30 percent”.

16 **SEC. 314. INTERAGENCY COMMITTEE ON WOMEN’S BUSI-**
 17 **NESS ENTERPRISE.**

18 (a) CHAIRPERSON.—Section 403(b) of the Women’s
 19 Business Ownership Act of 1988 (15 U.S.C. 631 note) is
 20 amended—

21 (1) by striking “Not later” and inserting the
 22 following:

23 “(1) IN GENERAL.—Not later”; and

24 (2) by adding at the end the following:

1 “(2) VACANCY.—In the event that a chair-
 2 person is not appointed under paragraph (1), the
 3 Deputy Administrator of the Small Business Admin-
 4 istration shall serve as acting chairperson of the
 5 Interagency Committee until a chairperson is ap-
 6 pointed under paragraph (1).”.

7 (b) POLICY ADVISORY GROUP.—Section 401 of the
 8 Women’s Business Ownership Act of 1988 (15 U.S.C. 631
 9 note) is amended—

10 (1) by striking “There” and inserting the fol-
 11 lowing:

12 “(a) IN GENERAL.—There”; and

13 (2) by adding at the end the following:

14 “(b) POLICY ADVISORY GROUP.—

15 “(1) ESTABLISHMENT.—There is established a
 16 Policy Advisory Group to assist the chairperson in
 17 developing policies and programs under this Act.

18 “(2) MEMBERSHIP.—The Policy Advisory
 19 Group shall be composed of 7 policy making offi-
 20 cials, of whom—

21 “(A) 1 shall be a representative of the
 22 Small Business Administration;

23 “(B) 1 shall be a representative of the De-
 24 partment of Commerce;

1 “(C) 1 shall be a representative of the De-
2 partment of Labor;

3 “(D) 1 shall be a representative of the De-
4 partment of Defense;

5 “(E) 1 shall be a representative of the De-
6 partment of the Treasury; and

7 “(F) 2 shall be representatives of the Na-
8 tional Women’s Business Council.”.

9 (c) ESTABLISHMENT OF SUBCOMMITTEES.—Section
10 401 of the Women’s Business Ownership Act of 1988 (15
11 U.S.C. 631 note), as amended by subsection (b), is further
12 amended by adding at the end the following:

13 “(c) SUBCOMMITTEES.—

14 “(1) ESTABLISHMENT.—There are estab-
15 lished—

16 “(A) the Subcommittee on Manufacturing,
17 Technology, and Professional Services;

18 “(B) the Subcommittee on Travel, Tour-
19 ism, Product and Retail Sales, and Inter-
20 national Trade; and

21 “(C) the Subcommittee on Federal Pro-
22 curement and Contracting.

23 “(2) DUTIES.—The Subcommittees established
24 under paragraph (1) shall perform such duties as
25 the chairperson shall direct.

1 “(3) MEETINGS.—The Interagency Committee
 2 shall meet not less frequently than 3 times each year
 3 to—

4 “(A) plan activities for the new fiscal year;

5 “(B) track year-to-date agency contracting
 6 goals; and

7 “(C) evaluate the progress during the fis-
 8 cal year and prepare an annual report.”.

9 **Subtitle C—Office of Native** 10 **American Affairs**

11 **SEC. 321. SHORT TITLE.**

12 This subtitle may be cited as the “Native American
 13 Small Business Development Act”.

14 **SEC. 322. NATIVE AMERICAN SMALL BUSINESS DEVELOP-** 15 **MENT PROGRAM.**

16 The Small Business Act (15 U.S.C. 631 et seq.) is
 17 amended—

18 (1) by redesignating section 36 as section 37;

19 and

20 (2) by inserting after section 35 the following:

21 **“SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOP-** 22 **MENT PROGRAM.**

23 “(a) DEFINITIONS.—In this section—

24 “(1) the term ‘Alaska Native’ has the same
 25 meaning as the term ‘Native’ in section 3(b) of the

1 Alaska Native Claims Settlement Act (43 U.S.C.
2 1602(b));

3 “(2) the term ‘Alaska Native corporation’ has
4 the same meaning as the term ‘Native Corporation’
5 in section 3(m) of the Alaska Native Claims Settle-
6 ment Act (43 U.S.C. 1602(m));

7 “(3) the term ‘Assistant Administrator’ means
8 the Assistant Administrator of the Office of Native
9 American Affairs established under subsection (b);

10 “(4) the terms ‘center’ and ‘Native American
11 business center’ mean a center established under
12 subsection (c);

13 “(5) the term ‘Native American business devel-
14 opment center’ means an entity providing business
15 development assistance to federally recognized tribes
16 and Native Americans under a grant from the Mi-
17 nority Business Development Agency of the Depart-
18 ment of Commerce;

19 “(6) the term ‘Native American small business
20 concern’ means a small business concern that is
21 owned and controlled by—

22 “(A) a member of an Indian tribe or tribal
23 government;

24 “(B) an Alaska Native or Alaska Native
25 corporation; or

1 “(C) a Native Hawaiian or Native Hawai-
2 ian organization;

3 “(7) the term ‘Native Hawaiian’ has the same
4 meaning as in section 625 of the Older Americans
5 Act of 1965 (42 U.S.C. 3057k);

6 “(8) the term ‘Native Hawaiian organization’
7 has the same meaning as in section 8(a)(15) of this
8 Act;

9 “(9) the term ‘tribal college’ has the same
10 meaning as the term ‘tribally controlled college or
11 university’ has in section 2(a)(4) of the Tribally
12 Controlled Community College Assistance Act of
13 1978 (25 U.S.C. 1801(a)(4));

14 “(10) the term ‘tribal government’ has the
15 same meaning as the term ‘Indian tribe’ has in sec-
16 tion 7501(a)(9) of title 31, United States Code; and

17 “(11) the term ‘tribal lands’ means all lands
18 within the exterior boundaries of any Indian reserva-
19 tion.

20 “(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

21 “(1) ESTABLISHMENT.—There is established
22 within the Administration the Office of Native
23 American Affairs, which, under the direction of the
24 Assistant Administrator, shall implement the Admin-

1 istration’s programs for the development of business
2 enterprises by Native Americans.

3 “(2) PURPOSE.—The purpose of the Office of
4 Native American Affairs is to assist Native Amer-
5 ican entrepreneurs to—

6 “(A) start, operate, and grow small busi-
7 ness concerns;

8 “(B) develop management and technical
9 skills;

10 “(C) seek Federal procurement opportuni-
11 ties;

12 “(D) increase employment opportunities
13 for Native Americans through the start and ex-
14 pansion of small business concerns; and

15 “(E) increase the access of Native Ameri-
16 cans to capital markets.

17 “(3) ASSISTANT ADMINISTRATOR.—

18 “(A) APPOINTMENT.—The Administrator
19 shall appoint a qualified individual to serve as
20 Assistant Administrator of the Office of Native
21 American Affairs in accordance with this para-
22 graph.

23 “(B) QUALIFICATIONS.—The Assistant
24 Administrator appointed under subparagraph
25 (A) shall have—

1 “(i) knowledge of the Native Amer-
2 ican culture; and

3 “(ii) experience providing culturally
4 tailored small business development assist-
5 ance to Native Americans.

6 “(C) EMPLOYMENT STATUS.—The Assist-
7 ant Administrator shall be a Senior Executive
8 Service position under section 3132(a)(2) of
9 title 5, United States Code, and shall serve as
10 a noncareer appointee, as defined in section
11 3132(a)(7) of title 5, United States Code.

12 “(D) RESPONSIBILITIES AND DUTIES.—
13 The Assistant Administrator shall—

14 “(i) administer and manage the Na-
15 tive American Small Business Development
16 program established under this section;

17 “(ii) recommend the annual adminis-
18 trative and program budgets for the Office
19 of Native American Affairs;

20 “(iii) consult with Native American
21 business centers in carrying out the pro-
22 gram established under this section;

23 “(iv) recommend appropriate funding
24 levels;

1 “(v) review the annual budgets sub-
 2 mitted by each applicant for the Native
 3 American Small Business Development
 4 program;

5 “(vi) select applicants to participate in
 6 the program under this section;

7 “(vii) implement this section; and

8 “(viii) maintain a clearinghouse to
 9 provide for the dissemination and exchange
 10 of information between Native American
 11 business centers.

12 “(E) CONSULTATION REQUIREMENTS.—In
 13 carrying out the responsibilities and duties de-
 14 scribed in this paragraph, the Assistant Admin-
 15 istrator shall confer with and seek the advice
 16 of—

17 “(i) Administration officials working
 18 in areas served by Native American busi-
 19 ness centers and Native American business
 20 development centers;

21 “(ii) the Bureau of Indian Affairs of
 22 the Department of the Interior;

23 “(iii) tribal governments;

24 “(iv) tribal colleges;

25 “(v) Alaska Native corporations; and

1 “(vi) Native Hawaiian organizations.

2 “(c) NATIVE AMERICAN SMALL BUSINESS DEVELOP-
3 MENT PROGRAM.—

4 “(1) AUTHORIZATION.—

5 “(A) IN GENERAL.—The Administration,
6 through the Office of Native American Affairs,
7 shall provide financial assistance to tribal gov-
8 ernments, tribal colleges, Native Hawaiian or-
9 ganizations, and Alaska Native corporations to
10 create Native American business centers in ac-
11 cordance with this section.

12 “(B) USE OF FUNDS.—The financial and
13 resource assistance provided under this sub-
14 section shall be used to overcome obstacles im-
15 peding the creation, development, and expan-
16 sion of small business concerns, in accordance
17 with this section, by—

18 “(i) reservation-based American Indi-
19 ans;

20 “(ii) Alaska Natives; and

21 “(iii) Native Hawaiians.

22 “(2) 5-YEAR PROJECTS.—

23 “(A) IN GENERAL.—Each Native Amer-
24 ican business center that receives assistance
25 under paragraph (1)(A) shall conduct 5-year

1 projects that offer culturally tailored business
2 development assistance in the form of—

3 “(i) financial education, including
4 training and counseling in—

5 “(I) applying for and securing
6 business credit and investment cap-
7 ital;

8 “(II) preparing and presenting fi-
9 nancial statements; and

10 “(III) managing cash flow and
11 other financial operations of a busi-
12 ness concern;

13 “(ii) management education, including
14 training and counseling in planning, orga-
15 nizing, staffing, directing, and controlling
16 each major activity and function of a small
17 business concern; and

18 “(iii) marketing education, including
19 training and counseling in—

20 “(I) identifying and segmenting
21 domestic and international market op-
22 portunities;

23 “(II) preparing and executing
24 marketing plans;

1 “(III) developing pricing strate-
2 gies;

3 “(IV) locating contract opportu-
4 nities;

5 “(V) negotiating contracts; and

6 “(VI) utilizing varying public re-
7 lations and advertising techniques.

8 “(B) BUSINESS DEVELOPMENT ASSIST-
9 ANCE RECIPIENTS.—The business development
10 assistance under subparagraph (A) shall be of-
11 fered to prospective and current owners of small
12 business concerns that are owned by—

13 “(i) American Indians or tribal gov-
14 ernments, and located on or near tribal
15 lands;

16 “(ii) Alaska Natives or Alaska Native
17 corporations; or

18 “(iii) Native Hawaiians or Native Ha-
19 waiian organizations.

20 “(3) FORM OF FEDERAL FINANCIAL ASSIST-
21 ANCE.—

22 “(A) DOCUMENTATION.—

23 “(i) IN GENERAL.—The financial as-
24 sistance to Native American business cen-
25 ters authorized under this subsection may

1 be made by grant, contract, or cooperative
2 agreement.

3 “(ii) EXCEPTION.—Financial assist-
4 ance under this subsection to Alaska Na-
5 tive corporations or Native Hawaiian orga-
6 nizations may only be made by grant.

7 “(B) PAYMENTS.—

8 “(i) TIMING.—Payments made under
9 this subsection may be disbursed in an an-
10 nual lump sum or in periodic installments,
11 at the request of the recipient.

12 “(ii) ADVANCE.—The Administration
13 may disburse not more than 25 percent of
14 the annual amount of Federal financial as-
15 sistance awarded to a Native American
16 small business center after notice of the
17 award has been issued.

18 “(iii) NO MATCHING REQUIREMENT.—
19 The Administration shall not require a
20 grant recipient to match grant funding re-
21 ceived under this subsection with non-Fed-
22 eral resources as a condition of receiving
23 the grant.

24 “(4) CONTRACT AND COOPERATIVE AGREE-
25 MENT AUTHORITY.—A Native American business

1 center may enter into a contract or cooperative
2 agreement with a Federal department or agency to
3 provide specific assistance to Native American and
4 other under-served small business concerns located
5 on or near tribal lands, to the extent that such con-
6 tract or cooperative agreement is consistent with the
7 terms of any assistance received by the Native
8 American business center from the Administration.

9 “(5) APPLICATION PROCESS.—

10 “(A) SUBMISSION OF A 5-YEAR PLAN.—

11 Each applicant for assistance under paragraph
12 (1) shall submit a 5-year plan to the Adminis-
13 tration on proposed assistance and training ac-
14 tivities.

15 “(B) CRITERIA.—

16 “(i) IN GENERAL.—The Administra-
17 tion shall evaluate and rank applicants in
18 accordance with predetermined selection
19 criteria that shall be stated in terms of rel-
20 ative importance.

21 “(ii) PUBLIC NOTICE.—The criteria
22 required by this paragraph and their rel-
23 ative importance shall be made publicly
24 available, within a reasonable time, and

1 stated in each solicitation for applications
2 made by the Administration.

3 “(iii) CONSIDERATIONS.—The criteria
4 required by this paragraph shall include—

5 “(I) the experience of the appli-
6 cant in conducting programs or ongo-
7 ing efforts designed to impart or up-
8 grade the business skills of current or
9 potential owners of Native American
10 small business concerns;

11 “(II) the ability of the applicant
12 to commence a project within a min-
13 imum amount of time;

14 “(III) the ability of the applicant
15 to provide quality training and serv-
16 ices to a significant number of Native
17 Americans;

18 “(IV) previous assistance from
19 the Small Business Administration to
20 provide services in Native American
21 communities; and

22 “(V) the proposed location for
23 the Native American business center
24 site, with priority given based on the
25 proximity of the center to the popu-

1 lation being served and to achieve a
2 broad geographic dispersion of the
3 centers.

4 “(6) PROGRAM EXAMINATION.—

5 “(A) IN GENERAL.—Each Native Amer-
6 ican business center established pursuant to
7 this subsection shall annually provide the Ad-
8 ministration with an itemized cost breakdown of
9 actual expenditures incurred during the pre-
10 ceding year.

11 “(B) ADMINISTRATION ACTION.—Based on
12 information received under subparagraph (A),
13 the Administration shall—

14 “(i) develop and implement an annual
15 programmatic and financial examination of
16 each Native American business center as-
17 sisted pursuant to this subsection; and

18 “(ii) analyze the results of each exam-
19 ination conducted under clause (i) to deter-
20 mine the programmatic and financial via-
21 bility of each Native American business
22 center.

23 “(C) CONDITIONS FOR CONTINUED FUND-
24 ING.—In determining whether to renew a grant,
25 contract, or cooperative agreement with a Na-

1 tive American business center, the Administra-
2 tion—

3 “(i) shall consider the results of the
4 most recent examination of the center
5 under subparagraph (B), and, to a lesser
6 extent, previous examinations; and

7 “(ii) may withhold such renewal, if
8 the Administration determines that—

9 “(I) the center has failed to pro-
10 vide adequate information required to
11 be provided under subparagraph (A),
12 or the information provided by the
13 center is inadequate; or

14 “(II) the center has failed to pro-
15 vide adequate information required to
16 be provided by the center for purposes
17 of the report of the Administration
18 under subparagraph (E).

19 “(D) CONTINUING CONTRACT AND COOP-
20 ERATIVE AGREEMENT AUTHORITY.—

21 “(i) IN GENERAL.—The authority of
22 the Administrator to enter into contracts
23 or cooperative agreements in accordance
24 with this subsection shall be in effect for
25 each fiscal year only to the extent and in

1 the amounts as are provided in advance in
2 appropriations Acts.

3 “(ii) RENEWAL.—After the Adminis-
4 trator has entered into a contract or coop-
5 erative agreement with any Native Amer-
6 ican business center under this subsection,
7 it shall not suspend, terminate, or fail to
8 renew or extend any such contract or coop-
9 erative agreement unless the Administrator
10 provides the center with written notifica-
11 tion setting forth the reasons therefore and
12 affords the center an opportunity for a
13 hearing, appeal, or other administrative
14 proceeding under chapter 5 of title 5,
15 United States Code.

16 “(E) MANAGEMENT REPORT.—

17 “(i) IN GENERAL.—The Administra-
18 tion shall prepare and submit to the Com-
19 mittee on Small Business and Entrepre-
20 neurship of the Senate and the Committee
21 on Small Business of the House of Rep-
22 resentatives an annual report on the effec-
23 tiveness of all projects conducted by Native
24 American business centers under this sub-
25 section and any pilot programs adminis-

1 tered by the Office of Native American Af-
2 fairs.

3 “(ii) CONTENTS.—Each report sub-
4 mitted under clause (i) shall include, with
5 respect to each Native American business
6 center receiving financial assistance under
7 this subsection—

8 “(I) the number of individuals re-
9 ceiving assistance from the Native
10 American business center;

11 “(II) the number of startup busi-
12 ness concerns created;

13 “(III) the number of existing
14 businesses seeking to expand employ-
15 ment;

16 “(IV) jobs created or maintained,
17 on an annual basis, by Native Amer-
18 ican small business concerns assisted
19 by the center since receiving funding
20 under this Act;

21 “(V) to the maximum extent
22 practicable, the capital investment and
23 loan financing utilized by emerging
24 and expanding businesses that were

1 assisted by a Native American busi-
2 ness center; and

3 “(VI) the most recent examina-
4 tion, as required under subparagraph
5 (B), and the subsequent determina-
6 tion made by the Administration
7 under that subparagraph.

8 “(7) ANNUAL REPORT.—Each entity receiving
9 financial assistance under this subsection shall annu-
10 ally report to the Administration on the services pro-
11 vided with such financial assistance, including—

12 “(A) the number of individuals assisted,
13 categorized by ethnicity;

14 “(B) the number of hours spent providing
15 counseling and training for those individuals;

16 “(C) the number of startup small business
17 concerns created or maintained;

18 “(D) the gross receipts of assisted small
19 business concerns;

20 “(E) the number of jobs created or main-
21 tained at assisted small business concerns; and

22 “(F) the number of Native American jobs
23 created or maintained at assisted small business
24 concerns.

25 “(8) RECORD RETENTION.—

1 “(A) APPLICATIONS.—The Administration
2 shall maintain a copy of each application sub-
3 mitted under this subsection for not less than
4 7 years.

5 “(B) ANNUAL REPORTS.—The Administra-
6 tion shall maintain copies of the information
7 collected under paragraph (6)(A) indefinitely.

8 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated \$5,000,000 for each of
10 the fiscal years 2004 through 2008, to carry out the Na-
11 tive American Small Business Development Program, au-
12 thorized under subsection (c).”.

13 **SEC. 323. PILOT PROGRAMS.**

14 (a) DEFINITIONS.—In this section, the following defi-
15 nitions shall apply:

16 (1) INCORPORATION BY REFERENCE.—The
17 terms defined in section 36(a) of the Small Business
18 Act (as added by this Act) have the same meanings
19 as in that section 36(a) when used in this section.

20 (2) JOINT PROJECT.—The term “joint project”
21 means the combined resources and expertise of 2 or
22 more distinct entities at a physical location dedi-
23 cated to assisting the Native American community.

24 (b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT
25 PROGRAM.—

1 (1) AUTHORIZATION.—

2 (A) IN GENERAL.—There is established a
3 4-year pilot program under which the Adminis-
4 tration is authorized to award Native American
5 development grants to provide culturally tai-
6 lored business development training and related
7 services to Native Americans and Native Amer-
8 ican small business concerns.

9 (B) ELIGIBLE ORGANIZATIONS.—The
10 grants authorized under subparagraph (A) may
11 be awarded to—

12 (i) any small business development
13 center; or

14 (ii) any private, nonprofit organization
15 that—

16 (I) has members of an Indian
17 tribe comprising a majority of its
18 board of directors;

19 (II) is a Native Hawaiian organi-
20 zation; or

21 (III) is an Alaska Native cor-
22 poration.

23 (C) AMOUNTS.—The Administration shall
24 not award a grant under this subsection in an

1 amount which exceeds \$100,000 for each year
2 of the project.

3 (D) GRANT DURATION.—Each grant under
4 this subsection shall be awarded for not less
5 than a 2-year period and not more than a 4-
6 year period.

7 (2) CONDITIONS FOR PARTICIPATION.—Each
8 entity desiring a grant under this subsection shall
9 submit an application to the Administration that
10 contains—

11 (A) a certification that the applicant—

12 (i) is a small business development
13 center or a private, nonprofit organization
14 under paragraph (1)(B)(i);

15 (ii) employs an executive director or
16 program manager to manage the facility;
17 and

18 (iii) agrees—

19 (I) to a site visit as part of the
20 final selection process;

21 (II) to an annual programmatic
22 and financial examination; and

23 (III) to the maximum extent
24 practicable, to remedy any problems

1 identified pursuant to that site visit or
2 examination;

3 (B) information demonstrating that the
4 applicant has the ability and resources to meet
5 the needs, including cultural needs, of the Na-
6 tive Americans to be served by the grant;

7 (C) information relating to proposed assist-
8 ance that the grant will provide, including—

9 (i) the number of individuals to be as-
10 sisted; and

11 (ii) the number of hours of counseling,
12 training, and workshops to be provided;

13 (D) information demonstrating the effec-
14 tive experience of the applicant in—

15 (i) conducting financial, management,
16 and marketing assistance programs de-
17 signed to impart or upgrade the business
18 skills of current or prospective Native
19 American business owners;

20 (ii) providing training and services to
21 a representative number of Native Ameri-
22 cans;

23 (iii) using resource partners of the
24 Administration and other entities, includ-

1 ing universities, tribal governments, or
2 tribal colleges; and

3 (iv) the prudent management of fi-
4 nances and staffing;

5 (E) the location where the applicant will
6 provide training and services to Native Ameri-
7 cans; and

8 (F) a multiyear plan, corresponding to the
9 length of the grant, that describes—

10 (i) the number of Native Americans
11 and Native American small business con-
12 cerns to be served by the grant;

13 (ii) in the continental United States,
14 the number of Native Americans to be
15 served by the grant; and

16 (iii) the training and services to be
17 provided to a representative number of Na-
18 tive Americans.

19 (3) REVIEW OF APPLICATIONS.—The Adminis-
20 tration shall—

21 (A) evaluate and rank applicants under
22 paragraph (2) in accordance with predeter-
23 mined selection criteria that is stated in terms
24 of relative importance;

1 (B) include such criteria in each solicita-
2 tion under this subsection and make such infor-
3 mation available to the public; and

4 (C) approve or disapprove each completed
5 application submitted under this subsection not
6 more than 60 days after submission.

7 (4) ANNUAL REPORT.—Each recipient of a Na-
8 tive American development grant under this sub-
9 section shall annually report to the Administration
10 on the impact of the grant funding, including—

11 (A) the number of individuals assisted, cat-
12 egorized by ethnicity;

13 (B) the number of hours spent providing
14 counseling and training for those individuals;

15 (C) the number of startup small business
16 concerns created or maintained with assistance
17 from a Native American business center;

18 (D) the gross receipts of assisted small
19 business concerns;

20 (E) the number of jobs created or main-
21 tained at assisted small business concerns; and

22 (F) the number of Native American jobs
23 created or maintained at assisted small business
24 concerns.

25 (5) RECORD RETENTION.—

1 (A) APPLICATIONS.—The Administration
2 shall maintain a copy of each application sub-
3 mitted under this subsection for not less than
4 7 years.

5 (B) ANNUAL REPORTS.—The Administra-
6 tion shall maintain copies of the information
7 collected under paragraph (4) indefinitely.

8 (c) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER
9 GRANT PILOT PROGRAM.—

10 (1) AUTHORIZATION.—

11 (A) IN GENERAL.—There is established a
12 4-year pilot program, under which the Adminis-
13 tration shall award not less than 3 American
14 Indian Tribal Assistance Center grants to es-
15 tablish joint projects to provide culturally tai-
16 lored business development assistance to pro-
17 spective and current owners of small business
18 concerns located on or near tribal lands.

19 (B) ELIGIBLE ORGANIZATIONS.—

20 (i) CLASS 1.—Not fewer than 1 grant
21 shall be awarded to a joint project per-
22 formed by a Native American business cen-
23 ter, a Native American business develop-
24 ment center, and a small business develop-
25 ment center.

1 (ii) CLASS 2.—Not fewer than 2
 2 grants shall be awarded to joint projects
 3 performed by a Native American business
 4 center and a Native American business de-
 5 velopment center.

6 (C) AMOUNTS.—The Administration shall
 7 not award a grant under this subsection in an
 8 amount which exceeds \$200,000 for each year
 9 of the project.

10 (D) GRANT DURATION.—Each grant under
 11 this subsection shall be awarded for a 3-year
 12 period.

13 (2) CONDITIONS FOR PARTICIPATION.—Each
 14 entity desiring a grant under this subsection shall
 15 submit to the Administration a joint application that
 16 contains—

17 (A) a certification that each participant of
 18 the joint application—

19 (i) is either a Native American busi-
 20 ness center, a Native American business
 21 development center, or a small business de-
 22 velopment center;

23 (ii) employs an executive director or
 24 program manager to manage the center;
 25 and

1 (iii) as a condition of receiving the
2 American Indian Tribal Assistance Center
3 grant, agrees—

4 (I) to an annual programmatic
5 and financial examination; and

6 (II) to the maximum extent prac-
7 ticable, to remedy any problems iden-
8 tified pursuant to that examination;

9 (B) information demonstrating an historic
10 commitment to providing assistance to Native
11 Americans—

12 (i) residing on or near tribal lands; or

13 (ii) operating a small business concern
14 on or near tribal lands;

15 (C) information demonstrating that each
16 participant of the joint application has the abil-
17 ity and resources to meet the needs, including
18 the cultural needs of the Native Americans to
19 be served by the grant;

20 (D) information relating to proposed as-
21 sistance that the grant will provide, including—

22 (i) the number of individuals to be as-
23 sisted; and

24 (ii) the number of hours of counseling,
25 training, and workshops to be provided;

1 (E) information demonstrating the effective
2 experience of each participant of the joint
3 application in—

4 (i) conducting financial, management,
5 and marketing assistance programs, as described
6 above, designed to impart or upgrade the business
7 skills of current or prospective Native American
8 business owners;
9 and

10 (ii) the prudent management of finances
11 and staffing; and

12 (F) a plan for the length of the grant, that
13 describes—

14 (i) the number of Native Americans
15 and Native American small business concerns
16 to be served by the grant; and

17 (ii) the training and services to be
18 provided.

19 (3) REVIEW OF APPLICATIONS.—The Administration
20 shall—

21 (A) evaluate and rank applicants under
22 paragraph (2) in accordance with predetermined
23 selection criteria that is stated in terms
24 of relative importance;

1 (B) include such criteria in each solicita-
2 tion under this subsection and make such infor-
3 mation available to the public; and

4 (C) approve or disapprove each application
5 submitted under this subsection not more than
6 60 days after submission.

7 (4) ANNUAL REPORT.—Each recipient of an
8 American Indian tribal assistance center grant
9 under this subsection shall annually report to the
10 Administration on the impact of the grant funding
11 received during the reporting year, and the cumu-
12 lative impact of the grant funding received since the
13 initiation of the grant, including—

14 (A) the number of individuals assisted, cat-
15 egorized by ethnicity;

16 (B) the number of hours of counseling and
17 training provided and workshops conducted;

18 (C) the number of startup business con-
19 cerns created or maintained with assistance
20 from a Native American business center;

21 (D) the gross receipts of assisted small
22 business concerns;

23 (E) the number of jobs created or main-
24 tained at assisted small business concerns; and

1 (F) the number of Native American jobs
2 created or maintained at assisted small business
3 concerns.

4 (5) RECORD RETENTION.—

5 (A) APPLICATIONS.—The Administration
6 shall maintain a copy of each application sub-
7 mitted under this subsection for not less than
8 7 years.

9 (B) ANNUAL REPORTS.—The Administra-
10 tion shall maintain copies of the information
11 collected under paragraph (4) indefinitely.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated—

14 (1) \$1,000,000 for each of the fiscal years 2004
15 through 2007, to carry out the Native American De-
16 velopment Grant Pilot Program, authorized under
17 subsection (b); and

18 (2) \$1,000,000 for each of the fiscal years 2004
19 through 2007, to carry out the American Indian
20 Tribal Assistance Center Grant Pilot Program, au-
21 thorized under subsection (c).

1 **Subtitle D—Office of Veterans**
2 **Business Development**

3 **SEC. 331. ADVISORY COMMITTEE ON VETERANS BUSINESS**
4 **AFFAIRS.**

5 (a) RETENTION OF DUTIES.—Section 33(h) of the
6 Small Business Act (15 U.S.C. 657c(h)) is amended by
7 striking “October 1, 2004” and inserting “October 1,
8 2006”.

9 (b) EXTENSION OF AUTHORITY.—Section 203(h) of
10 the Veterans Entrepreneurship and Small Business Devel-
11 opment Act of 1999 (15 U.S.C. 657b note) is amended
12 by striking “September 30, 2004” and inserting “Sep-
13 tember 30, 2006”.

14 **SEC. 332. OUTREACH GRANTS FOR VETERANS.**

15 Section 8(b)(17) of the Small Business Act (15
16 U.S.C. 637(b)(17)) is amended by inserting before the pe-
17 riod at the end the following: “, veterans, and members
18 of a reserve component of the Armed Forces”.

19 **SEC. 333. AUTHORIZATION OF APPROPRIATIONS.**

20 Section 32 of the Small Business Act (15 U.S.C.
21 657b) is amended by adding at the end the following:

22 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated for carrying out the pro-
24 visions of this section—

25 “(1) \$1,000,000 for fiscal year 2004;

1 “(2) \$1,500,000 for fiscal year 2005; and

2 “(3) \$2,000,000 for fiscal year 2006.”.

3 **TITLE IV—SMALL BUSINESS**
 4 **PROCUREMENT OPPORTUNITIES**

5 **SEC. 401. CONTRACT CONSOLIDATION.**

6 (a) DEFINITIONS.—Section 3(o) of the Small Busi-
 7 ness Act (15 U.S.C. 632(o)) is amended to read as follows:

8 “(o) DEFINITIONS RELATING TO CONSOLIDATION OF
 9 CONTRACT REQUIREMENTS.—In this Act—

10 “(1) the terms ‘consolidation of contract re-
 11 quirements’ and ‘consolidation’, with respect to con-
 12 tract requirements of a military department, De-
 13 fense Agency, Department of Defense Field Activity,
 14 or any other Federal department or agency having
 15 contracting authority mean a use of a solicitation to
 16 obtain offers for a single contract or a multiple
 17 award contract to satisfy 2 or more requirements of
 18 that department, agency, or activity for goods or
 19 services that—

20 “(A) have previously been provided to or
 21 performed for that department, agency, or ac-
 22 tivity under 2 or more separate contracts that
 23 are smaller in cost than the total cost of the
 24 contract for which the offers are solicited; or

1 “(B) are of a type capable of being pro-
2 vided or performed by a small business concern
3 for that department, agency, or activity under
4 2 or more separate contracts that are smaller in
5 cost than the total cost of the contract for
6 which the offers are solicited;

7 “(2) the term ‘multiple award contract’
8 means—

9 “(A) a contract that is entered into by the
10 Administrator of General Services under the
11 multiple award schedule program referred to in
12 section 2302(2)(C) of title 10, United States
13 Code;

14 “(B) a multiple award task order contract
15 or delivery order contract that is entered into
16 under the authority of sections 2304a through
17 2304d of title 10, United States Code, or sec-
18 tions 303H through 303K of the Federal Prop-
19 erty and Administrative Services Act of 1949
20 (41 U.S.C. 253h through 253k); and

21 “(C) any other indeterminate delivery, in-
22 determinate quantity contract that is entered
23 into by the head of a Federal agency with 2 or
24 more sources pursuant to the same solicitation;
25 and

1 “(3) the term ‘senior procurement executive’
2 means—

3 “(A) with respect to a military department,
4 the official designated under section 16(3) of
5 the Office of Federal Procurement Policy Act
6 (41 U.S.C. 414(3)) as the senior procurement
7 executive for the military department;

8 “(B) with respect to a Defense Agency or
9 a Department of Defense Field Activity, the of-
10 ficial so designated for the Department of De-
11 fense; and

12 “(C) with respect to a Federal department
13 or agency other than those referred to in sub-
14 paragraphs (A) and (B), the official so des-
15 ignated by that department or agency.”.

16 (b) PROCUREMENT STRATEGIES.—Section 15(e) of
17 the Small Business Act (15 U.S.C. 644(e)) is amended—

18 (1) in paragraph (2)—

19 (A) by striking “.—

20 “(A) IN GENERAL”; and

21 (B) by striking subparagraphs (B) and
22 (C); and

23 (2) by striking paragraph (3) and inserting the
24 following:

1 “(3) LIMITATION ON USE OF ACQUISITION
2 STRATEGIES INVOLVING CONSOLIDATION.—

3 “(A) CERTAIN DEFENSE CONTRACT RE-
4 QUIREMENTS.—An official of a military depart-
5 ment, defense agency, or Department of De-
6 fense Field Activity shall not execute an acqui-
7 sition strategy that includes a consolidation of
8 contract requirements of the military depart-
9 ment, agency, or activity with a total value in
10 excess of \$5,000,000, unless the senior procure-
11 ment executive first—

12 “(i) conducts market research;

13 “(ii) identifies any alternative con-
14 tracting approaches that would involve a
15 lesser degree of consolidation of contract
16 requirements; and

17 “(iii) determines that the consolida-
18 tion is necessary and justified.

19 “(B) CERTAIN CIVILIAN AGENCY CON-
20 TRACT REQUIREMENTS.—The head of a Federal
21 agency not described in subparagraph (A) that
22 has contracting authority shall not execute an
23 acquisition strategy that includes a consolida-
24 tion of contract requirements of the agency with
25 a total value in excess of \$2,000,000, unless the

1 senior procurement executive of the agency
2 first—

3 “(i) conducts market research;

4 “(ii) identifies any alternative con-
5 tracting approaches that would involve a
6 lesser degree of consolidation of contract
7 requirements; and

8 “(iii) determines that the consolida-
9 tion is necessary and justified.

10 “(C) ADDITIONAL REQUIREMENTS FOR
11 HIGHER VALUE CONSOLIDATED CONTRACTS.—

12 In addition to meeting the requirements under
13 subparagraph (A) or (B), a procurement strat-
14 egy by a civilian agency that includes a consoli-
15 dated contract valued at more than \$5,000,000,
16 or by a defense agency that includes a consoli-
17 dated contract valued at more than \$7,000,000
18 shall include—

19 “(i) an assessment of the specific im-
20 pediments to participation by small busi-
21 ness concerns as prime contractors that
22 will result from the consolidation;

23 “(ii) actions designed to maximize
24 small business participation as prime con-
25 tractors, including provisions that encour-

1 age small business teaming for the consoli-
2 dated requirement;

3 “(iii) actions designed to maximize
4 small business participation as subcontract-
5 tors (including suppliers) at any tier under
6 the contract or contracts that may be
7 awarded to meet the requirements; and

8 “(iv) the identification of the alter-
9 native strategies that would reduce or min-
10 imize the scope of the consolidation and
11 the rationale for not choosing those alter-
12 natives.

13 “(D) NECESSARY AND JUSTIFIED.—A sen-
14 ior procurement executive may determine that
15 an acquisition strategy involving a consolidation
16 of contract requirements is necessary and justi-
17 fied for purposes of subparagraph (A), (B), or
18 (C), if the benefits of the acquisition strategy
19 substantially exceed the benefits of each of the
20 possible alternative contracting approaches
21 identified under clause (ii) of any of those sub-
22 paragraphs, as applicable. However, savings in
23 administrative or personnel costs alone do not
24 constitute, for such purpose, a sufficient jus-
25 tification for a consolidation of contract require-

1 ments in a procurement, unless the total
 2 amount of the cost savings is expected to be
 3 substantial in relation to the total cost of the
 4 procurement.

5 “(E) BENEFITS.—Benefits considered for
 6 purposes of this paragraph may include cost
 7 and, regardless of whether quantifiable in dollar
 8 amounts—

9 “(i) quality;

10 “(ii) acquisition cycle;

11 “(iii) terms and conditions; and

12 “(iv) any other benefit directly related
 13 to national security or homeland defense.”.

14 (c) REPORT REQUIREMENTS.—Section 15(p)(4)(B)
 15 of the Small Business Act (15 U.S.C. 644(p)(4)(B)) is
 16 amended—

17 (1) in clause (i), by striking “and” at the end;

18 (2) in clause (ii), by striking the period at the
 19 end and inserting the following: “; and”; and

20 (3) by adding at the end the following:

21 “(iii) a description of best practices
 22 for maximizing small business prime and
 23 subcontracting opportunities.”.

1 (d) PROCUREMENT CENTER REPRESENTATIVES.—

2 Section 15(l) of the Small Business Act (15 U.S.C. 644(l))

3 is amended—

4 (1) by striking “(l)(1)” and inserting “(2)”;

5 (2) by redesignating paragraphs (2) through

6 (7) as paragraphs (3) through (8), respectively;

7 (3) by inserting before paragraph (2), as so re-
8 designated, the following:

9 “(l)(1) The Administration shall assign not fewer
10 than 1 procurement center representative at each major
11 procurement center, in addition to no less than 1 for each
12 State.”;

13 (4) in paragraph (2), as redesignated, by strik-
14 ing “to the representative referred to in subsection
15 (k)(6)” and inserting “to the traditional procure-
16 ment center representative and the commercial mar-
17 ket representative, with each such position filled by
18 a different individual, and each such representative
19 having separate and distinct duties and responsibil-
20 ities.”; and

21 (5) by striking “paragraph (2)” each place that
22 term appears and inserting “paragraph (3)”.

23 (e) ADDITIONAL TO TECHNICAL ADVISERS.—Section

24 15(k)(8) of the Small Business Act (15 U.S.C. 644(k)(8))

25 is amended by striking “representative—” and inserting

1 “representative at each major procurement center under
2 subsection (l)(1)—”.

3 (f) CONFORMING AMENDMENTS.—Section 15(p) of
4 the Small Business Act (15 U.S.C. 644(p)) is amended—

5 (1) in the subsection heading, by striking
6 “BUNDLED CONTRACTS” and inserting “CONSOLI-
7 DATED CONTRACTS”;

8 (2) in paragraph (1), in the paragraph heading,
9 by striking “BUNDLED CONTRACT” and inserting
10 “CONSOLIDATED CONTRACT”;

11 (3) in paragraph (4), in the paragraph heading,
12 by striking “CONTRACT BUNDLING” and inserting
13 “CONTRACT CONSOLIDATION”;

14 (4) by striking “bundled contracts” each place
15 that term appears and inserting “consolidated con-
16 tracts”;

17 (5) by striking “bundled contract” each place
18 that term appears and inserting “consolidated con-
19 tract”;

20 (6) by striking “bundling of contract require-
21 ments” each place that term appears and inserting
22 “consolidation of contract requirements”;

23 (7) in paragraph (4)(B)(ii), by striking “pre-
24 viously bundled” and inserting “previously consoli-
25 dated”;

1 (8) in paragraph (4)(B)(ii)(I), by striking
2 “were bundled” and inserting “were consolidated”;

3 (9) in paragraph (4)(B)(ii)(II)(bb), by striking
4 “bundling the contract requirements” and inserting
5 “the consolidation of contract requirements”; and

6 (10) in paragraph (4)(B)(ii)(II)(cc), by striking
7 “bundled status” and inserting “consolidated sta-
8 tus”.

9 **SEC. 402. AGENCY ACCOUNTABILITY.**

10 (a) AGENCY RESPONSIBILITIES.—Section 15(g)(2) of
11 the Small Business Act (15 U.S.C. 644(g)(2)) is amend-
12 ed—

13 (1) by inserting “(A)” after “(2)”;

14 (2) by striking “shall, after consultation” and
15 inserting the following: “shall—

16 “(i) after consultation”;

17 (3) by striking “agency. Goals established” and
18 inserting the following: “agency;

19 “(ii) identify a percentage of the procurement
20 budget of the agency to be awarded to small busi-
21 ness concerns, in consultation with the Office of
22 Small and Disadvantaged Business Utilization of the
23 agency, which information shall be included in the
24 strategic plan required under section 306 of title 5,
25 United States Code, and the annual budget submis-

1 sion to Congress by that agency, and, upon request,
 2 in any testimony provided by that agency before the
 3 Congress in connection with the budget process; and

4 “(iii) report, as part of its annual performance
 5 plan, required under section 1115 of title 31, United
 6 States Code, the extent to which the agency achieved
 7 the goals referred to in clause (ii), and appropriate
 8 justification for any failure to do so.

9 “(B) Goals established”;

10 (4) by striking “Whenever” and inserting the
 11 following:

12 “(C) Whenever”;

13 (5) by striking “For the purpose of” and insert-
 14 ing the following:

15 “(D) For the purpose of”;

16 (6) in the last sentence—

17 (A) by striking “(A) contracts” and insert-
 18 ing “(i) contracts”; and

19 (B) by striking “(B) contracts” and insert-
 20 ing “(ii) contracts”; and

21 (7) by adding at the end the following:

22 “(E)(i) Each procurement employee described in
 23 clause (iii)—

24 “(I) shall have as an annual performance eval-
 25 uation factor, where appropriate, the success of that

1 procurement employee in small business utilization,
2 in accordance with the goals established under this
3 subsection; and

4 “(II) shall communicate to their subordinates
5 the importance of achieving small business goals.

6 “(ii) An appropriate percentage of any performance-
7 related bonus awarded to a procurement employee de-
8 scribed in clause (iii) shall be withheld, where appropriate,
9 for failure to achieve the goals established under this sub-
10 section.

11 “(iii) A procurement employee described in this
12 clause is a senior procurement executive, senior program
13 manager, or small and disadvantaged business utilization
14 manager of a Federal agency having contracting author-
15 ity.”.

16 (b) SMALL AND DISADVANTAGED BUSINESS UTILI-
17 ZATION.—Section 15(k)(3) of the Small Business Act (15
18 U.S.C. 644(k)(3)) is amended to read as follows:

19 “(3) be responsible only to, and report directly
20 to, the head of such agency, except that the Director
21 of Small and Disadvantaged Business Utilization for
22 the Department of Defense shall be responsible only
23 to, and report directly to, the Undersecretary of De-
24 fense for Acquisition, Technology, and Logistics,”.

1 (c) REPORTS ON SMALL BUSINESS UTILIZATION.—
 2 Section 10(d) of the Small Business Act (15 U.S.C.
 3 639(d)) is amended—

4 (1) by inserting “and each agency that is a
 5 member of the President’s Management Council (or
 6 any successor thereto)” after “Department of De-
 7 fense” the first place that term appears; and

8 (2) by inserting “or that agency” after “De-
 9 partment of Defense” the second place that term ap-
 10 pears.

11 (d) TECHNICAL CORRECTION.—

12 (1) IN GENERAL.—Section 502(b) of the Vet-
 13 erans Entrepreneurship and Small Business Devel-
 14 opment Act of 1999 (Public Law 106–50, 113 Stat.
 15 248) is amended by striking “Section 15” and in-
 16 serting “Section 15(g)(2)”.

17 (2) EFFECT.—The amendment made by para-
 18 graph (1) shall be deemed to have the same effective
 19 date as section 502(b) of the Veterans Entrepre-
 20 neurship and Small Business Development Act of
 21 1999.

22 **SEC. 403. SMALL BUSINESS PARTICIPATION IN PRIME CON-**
 23 **TRACTING.**

24 (a) PARTICIPATION IN MULTIPLE AWARD CON-
 25 TRACTS.—Section 15(g) of the Small Business Act (15

1 U.S.C. 644(g)) is amended by adding at the end the fol-
 2 lowing:

3 “(3) The governmentwide goal for participation by
 4 small business concerns in any multiple award contract
 5 shall be established at not less than 23 percent of the total
 6 dollar value of all awards under that contract.”.

7 (b) RESERVED CONTRACTS.—Section 15(j) of the
 8 Small Business Act (15 U.S.C. 644(j)) is amended—

9 (1) in paragraph (1), by inserting “, including
 10 any order of 1 or more Federal Supply Schedule
 11 items,” after “goods and services”; and

12 (2) by adding at the end the following:

13 “(4) Any adjustment to the simplified acquisition
 14 threshold (as defined in section 4(11) of the Office of Fed-
 15 eral Procurement Policy Act (41 U.S.C. 403(11))), shall
 16 be immediately matched by an identical adjustment to the
 17 small business reserve for purposes of this subsection.”.

18 **SEC. 404. SMALL BUSINESS PARTICIPATION IN SUBCON-**
 19 **TRACTING.**

20 (a) CERTIFICATIONS REQUIRED.—Section 8(d)(6) of
 21 the Small Business Act (15 U.S.C. 637(d)(6)) is amend-
 22 ed—

23 (1) in subparagraph (E), by striking “and” at
 24 the end;

1 (2) in subparagraph (F), by striking the period
2 at the end and inserting a semicolon; and

3 (3) by adding at the end the following:

4 “(G) the name and signature of the individual
5 that is the president, chief executive officer, or head
6 of the entity, certifying that subcontracting data
7 provided are accurate and complete; and

8 “(H) certification that the offeror or bidder will
9 acquire articles, equipment, supplies, services, or
10 materials, or obtain the performance of construction
11 work from small business concerns in the amount
12 and quality used in preparing the bid or proposal,
13 unless such small business concerns no longer in
14 business or can no longer meet the quality, quantity,
15 or delivery date.”.

(b) PENALTIES FOR FALSE CERTIFICATIONS.—Section 16(f) of the Small Business Act (14 U.S.C. 645(f)) is amended by inserting “or 8(d)(6)(G))” before “of this Act”.

20 SEC. 405. EVALUATING SUBCONTRACT PARTICIPATION IN
21 AWARDING CONTRACTS.

(a) SIGNIFICANT FACTORS.—Section 8(d)(4)(G) of the Small Business Act (15 U.S.C. 637(d)(4)(G)) is amended by striking “a bundled” and inserting “any”.

1 (b) EVALUATION REPORTS.—Section 8(d)(10) of the
2 Small Business Act (15 U.S.C. 637(d)(10)) is amended—

3 (1) by striking “is authorized to” and inserting
4 “shall”;

5 (2) in subparagraph (B), by striking “and” at
6 the end;

7 (3) in subparagraph (C), by striking the period
8 at the end and inserting “; and”; and

9 (4) by adding at the end the following:

10 “(D) report the results of each evaluation under
11 subparagraph (C) to the appropriate contracting of-
12 ficers.”.

13 (c) CENTRALIZED DATABASE; PAYMENTS PENDING
14 REPORTS.—Section 8(d) of the Small Business Act (15
15 U.S.C. 637(d)) is amended—

16 (1) by redesignating paragraph (11) as para-
17 graph (13); and

18 (2) by inserting after paragraph (10) the fol-
19 lowing:

20 “(11) CENTRALIZED DATABASE.—The results of an
21 evaluation under paragraph (10)(C) shall be included in
22 a national centralized governmentwide database.

23 “(12) PAYMENTS PENDING REPORTS.—Each Federal
24 agency having contracting authority shall ensure that the
25 terms of each contract for goods and services includes a

1 provision allowing the contracting officer of an agency to
 2 withhold an appropriate amount of payment with respect
 3 to a contract (depending on the size of the contract) until
 4 the date of receipt of complete, accurate, and timely sub-
 5 contracting reports in accordance with paragraph
 6 (6)(G).”.

7 (d) REFERRAL OF MATERIAL BREACH TO INSPEC-
 8 TORS GENERAL.—Section 8(d)(8) of the Small Business
 9 Act (15 U.S.C. 637(d)(8)) is amended by adding at the
 10 end the following: “A material breach described in this
 11 paragraph shall be referred for investigation to the Inspec-
 12 tor General (or the equivalent) of the affected agency.”.

13 **SEC. 406. DIRECT PAYMENTS TO SUBCONTRACTORS.**

14 (a) IN GENERAL.—Section 8(d) of the Small Busi-
 15 ness Act (15 U.S.C. 637(d)), as amended by section 405,
 16 is further amended by adding at the end the following:

17 “(14) TIMELY PAYMENT TO SMALL BUSINESS SUB-
 18 CONTRACTORS.—

19 “(A) IN GENERAL.—Subject to subparagraph
 20 (B), the failure of a civilian agency prime contractor,
 21 as defined in subparagraph (D), to make a timely
 22 payment, as determined by the contract with the
 23 subcontractor, to a subcontractor that is a small
 24 business concern shall be a material breach of the
 25 contract with the Federal agency.

1 “(B) CONSIDERATION OF PERFORMANCE.—Be-
2 fore making a determination under subparagraph
3 (A), the contracting officer shall consider all reason-
4 able issues regarding the performance, or lack of
5 performance, of the subcontractor.

6 “(C) WITHHOLDING OF PAYMENTS.—Not later
7 than 30 days after the date on which a material
8 breach under subparagraph (A) is determined by the
9 contracting officer, the Federal agency may withhold
10 any amounts due and owing the subcontractor from
11 payments due to the prime contractor and pay such
12 amounts directly to the subcontractor.

13 “(D) DEFINED TERM.—As used in this para-
14 graph, the term ‘civilian agency prime contractor’
15 means a prime contractor that offers any combina-
16 tion of services or manufactured goods to Federal
17 agencies other than the Department of Defense or
18 agencies with responsibility for homeland security or
19 national security.”.

20 (b) SUNSET.—The amendment made by this section
21 shall remain in effect during the period beginning on the
22 date of enactment of this Act and ending on September
23 30, 2006.

1 **SEC. 407. WOMEN-OWNED SMALL BUSINESS INDUSTRY**
2 **STUDY.**

3 Section 8(m)(4) of the Small Business Act (15
4 U.S.C. 637(m)(4)) is amended to read as follows:

5 “(4) GAO IDENTIFICATION OF INDUSTRIES.—

6 “(A) STUDY.—The Comptroller General of
7 the United States shall conduct a study to iden-
8 tify industries in which small business concerns
9 owned and controlled by women are underrep-
10 resented with respect to Federal procurement
11 contracting.

12 “(B) REPORT TO CONGRESS.—Not later
13 than December 31, 2003, the Comptroller Gen-
14 eral shall submit a report to Congress on the
15 results of the study conducted under subpara-
16 graph (A), together with any recommendations
17 for legislative action.

18 “(C) ASSISTANCE FROM OTHER AGEN-
19 CIES.—The Comptroller General may request of
20 any Federal agency, and such agency shall pro-
21 vide, such information as the Comptroller Gen-
22 eral determines necessary in carrying out this
23 paragraph, to the extent otherwise permitted by
24 law.”.

1 **SEC. 408. AUTHORIZATIONS.**

2 Section 31(d) of the Small Business Act (15 U.S.C.
3 657a(d)) is amended—

4 (1) by striking “2001” and inserting “2004”;

5 and

6 (2) by striking “2003” and inserting “2006”.

7 **SEC. 409. DEFINITION OF HUBZONE; TREATMENT OF CER-**
8 **TAIN FORMER MILITARY INSTALLATION**
9 **LANDS AS HUBZONES.**

10 (a) **BASE CLOSURE AREAS.**—Section 3(p)(1) of the
11 Small Business Act (15 U.S.C. 632(p)(1)) is amended—

12 (1) in subparagraph (C), by striking “or” at
13 the end;

14 (2) in subparagraph (D), by striking the period
15 at the end and inserting “; or”; and

16 (3) by adding at the end the following:

17 “(E) base closure areas.”.

18 (b) **DEFINITION.**—Section 3(p)(4) of the Small Busi-
19 ness Act (15 U.S.C. 632(p)(4)) is amended by adding at
20 the end the following:

21 “(D) **BASE CLOSURE AREA.**—The term
22 ‘base closure area’ means lands within the ex-
23 ternal boundaries of a military installation that
24 were closed through a privatization process
25 under the authority of—

1 “(i) the Defense Base Closure and
 2 Realignment Act of 1990 (part A of title
 3 XXIX of Division B of Public Law 101–
 4 510; 10 U.S.C. 2687 note);

5 “(ii) title II of the Defense Authoriza-
 6 tion Amendments and Base Closure and
 7 Realignment Act (Public Law 100–526; 10
 8 U.S.C. 2687 note);

9 “(iii) section 2687 of title 10, United
 10 States Code; or

11 “(iv) any other provision of law au-
 12 thorizing or directing the Secretary of De-
 13 fense or the Secretary of a military depart-
 14 ment to dispose of real property at the
 15 military installation for purposes relating
 16 to base closures of redevelopment, while re-
 17 taining the authority to enter into a lease-
 18 back of all or a portion of the property for
 19 military use.”.

20 **SEC. 410. DEFINITION OF HUBZONE SMALL BUSINESS CON-**
 21 **CERN.**

22 Section 3(p) of the Small Business Act (15 U.S.C.
 23 632(p)) is amended—

24 (1) by redesignating paragraphs (4) through
 25 (7) as paragraphs (5) through (8), respectively; and

1 (2) by inserting after paragraph (3) the fol-
2 lowing:

3 “(4) RULE OF CONSTRUCTION RELATING TO
4 OWNERSHIP.—For purposes of paragraph (3)(A),
5 the term ‘person’ includes any small business invest-
6 ment company, specialized small business investment
7 company, New Markets Venture Capital company
8 (as those terms are defined in sections 103 and 351,
9 respectively, of the Small Business Investment Act
10 of 1958 (15 U.S.C. 662, 689), or other similar in-
11 vestment company, as determined by the Adminis-
12 trator, if any such company comprises not more
13 than 15 percent of the ownership of the subject
14 small business concern.”.

15 **SEC. 411. ACQUISITION REGULATIONS.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Government-wide procurement regulations
18 issued under sections 6(a) and 25(c) of the Office of Fed-
19 eral Procurement Policy Act (41 U.S.C. 405(a) and
20 421(c)) and the procurement regulations described in sec-
21 tion 25(c)(2) of the Office of Federal Procurement Policy
22 Act (41 U.S.C. 421(c)(2)) that are issued by the Depart-
23 ment of Defense shall be amended as necessary to carry
24 out this title and the amendments made by this title.

1 **TITLE V—MISCELLANEOUS**

2 **SEC. 501. MINORITY SMALL BUSINESS AND CAPITAL OWN-** 3 **ERSHIP DEVELOPMENT PROGRAM.**

4 (a) NAME CHANGE.—Sections 4(b), 7(j), and 8(a) of
 5 the Small Business Act (15 U.S.C. 633(b), 636(j), and
 6 637(a)) are amended by striking “Minority Small Busi-
 7 ness and Capital Ownership Development” each place it
 8 appears and inserting “Business Development”.

9 (b) CONFORMING AMENDMENTS.—The Small Busi-
 10 ness Act (15 U.S.C. 631 et seq.) is amended—

11 (1) in section 2(d)(2)(B)(ii), by striking “small
 12 business and capital ownership development pro-
 13 gram” and inserting “small business development
 14 program”;

15 (2) in section 7(j)(10), by striking “small busi-
 16 ness and capital ownership development program”
 17 and inserting “small business development pro-
 18 gram”;

19 (3) in section 7(j)(12)(A), by striking “Capital
 20 Ownership Development Program” and inserting
 21 “Business Development Program”; and

22 (4) in section 8(a)(21)(B)(v)(I), by striking
 23 “Capital Ownership Development Program” and in-
 24 serting “Business Development Program”.

1 (c) ANNUAL REPORT.—Section 8(a)(20)(A) of the
 2 Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended
 3 by striking “semiannually report to their assigned Busi-
 4 ness Opportunity Specialist” and inserting “annually sub-
 5 mit, to their assigned Business Opportunity Specialist, a
 6 report, which shall include”.

7 **SEC. 502. EXTENSION OF PROGRAM AUTHORITY.**

8 (a) RURAL OUTREACH.—Section 9(s)(2) of the Small
 9 Business Act (15 U.S.C. 638(s)(2)) is amended by strik-
 10 ing “2005” and inserting “2006”.

11 (b) FAST PROGRAM.—Section 34 of the Small Busi-
 12 ness Act (15 U.S.C. 657d) is amended—

13 (1) in subsection (h), by striking “2005” each
 14 place it appears and inserting “2006”; and

15 (2) by striking “September 30, 2005” and in-
 16 serting “September 30, 2006”.

17 **SEC. 503. REPORT TO CONGRESS.**

18 Section 8(n) of the Small Business Act (15 U.S.C.
 19 637(n)) is amended by adding at the end the following:

20 “(4) ANNUAL REPORT.—

21 “(A) IN GENERAL.—The Associate Admin-
 22 istrator of Business Development shall collect
 23 data on the BusinessLINC program and submit
 24 an annual report by April 30 of each year on
 25 the effectiveness of the program to the Com-

1 mittee on Small Business and Entrepreneurship
2 of the Senate and the Committee on Small
3 Business of the House.

4 “(B) CONTENTS.—The report submitted
5 under subparagraph (A) shall include—

6 “(i) the number of programs adminis-
7 tered in each State;

8 “(ii) the corresponding grant awards
9 and the date of each award;

10 “(iii) the dollar amount of the con-
11 tracts in effect in each State as a result of
12 the BusinessLINC program; and

13 “(iv) the number of teaming arrange-
14 ments or partnerships created as a result
15 of the BusinessLINC program.”.

○